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ILLINOIS EPA PUBLIC HEARING
DRAFT CAAPP and RCRA PERMITS
for
ONYX ENVIRONMENTAL SERVICES, SAUGET

TAKEN July 22, 2003
Cahokia Village Hall
Cahokia, Illinois

HEARING OFFICER: Charles Matoesian

COURT REPORTER: Cynthia A. Myers, CSR, CCR

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CHARLES MATOESIAN, Illinois EPA Hearing Officer.

Ladies and Gentlemen, my name is Charles
Matoesian, I'm the hearing officer tonight. This
hearing is being held by the Illinois Environmental
Protection Agency. This is the joint hearing of
the Bureaus of Air and Land. The purpose of the
hearing is to receive comments and data and answer
questions from the public concerning two draft
permits. Onyx Environmental Services, formally
known as Trade Waste Incineration, has requested
two permits from the Illinois Environmental
Protection Agency. The facility is located at 7
Mobile Avenue in Sauget, Illinois. The facility
has requested a Clean Air Act Permit Program
Permit for its air emissions and renewal of their
Resource Conservation and Recovery Act and
Hazardous and Solid Waste Amendment Permit for the
management of hazardous waste on site. The
facility accepts, stores, and incinerates
hazardous waste.

This hearing is being held on the provisions
of 35 Illinois Administrative Code Section 166

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1 subpart A, and 35 Illinois Administrative Code
2 Section 705.182.

3 If you do not wish to speak at the hearing
4 you may submit written comments, and in indeed
5 lengthy comments or questions should be submitted
6 and the Illinois EPA will answer in writing.
7 Written comments must be postmarked by midnight
8 August 22, 2003. They need not be notarized but
9 should be sent to myself, Charles Matoesian,
10 that's M-A-T-O-E-S-I-A-N, as in Nancy, Illinois
11 EPA Hearing Officer, at 1021 North Grand Avenue
12 East, P.O. Box 19276, Springfield, Illinois,
13 62794-9276. This information is all available in
14 the notice that was placed in the newspaper.

15 In addition, restrooms are on either side of
16 the room and there's a drinking fountain just
17 outside of the closed doors, and also a soda
18 machine. We will start with some presentations by
19 staff from the Illinois EPA and United States EPA,
20 then we will take written -- or comments from the
21 public, and after people have spoken we will take
22 general questions from the public.

23 In addition, I will note that there are
24 members from the company involved who may answer
25 questions as well. Please come up to the

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1 microphone there when you speak your comments and
2 also please clearly state and spell your last name
3 for the record because the court reporter must get
4 everything down on the record for it to be
5 preserved. I'll start then with Ted Dragovich
6 from the Illinois EPA.

7

8 TED DRAGOVICH, Permit Unit Manager

9

10 (BY MR. DRAGOVICH): Thank you. Good
11 evening, my name is Ted Dragovich. I am the
12 manager of the Disposal Alternatives Unit for the
13 Bureau of Land. Before we discuss the specifics
14 of these permits, I would like to explain a little
15 bit about RCRA. "RCRA" is an acronym for the
16 Resource Conservation and Recovery Act. That was
17 a law which was passed by Congress in 1976. Its
18 purpose is to deal with hazardous waste issues.

19 RCRA imposes requirements on people who manage
20 hazardous waste from the time it is generated
21 through its storage, treatment, or placement in a
22 landfill. Facilities that manage hazardous waste
23 must first obtain a permit, unless they meet one
24 of the permit exemptions in the regulations.
25 Permits are very specific about what types of

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1 activities are allowed at the facility. Permits
2 are usually issued for ten years. Prior to
3 expiration the facility operator must submit a
4 renewal application. If the application is
5 complete, the facility may continue to operate
6 after the permit has expired, until the IEPA makes
7 a final decision on the application.

8 Tonight we are here to discuss a draft permit
9 for the renewal of the permit for the Onyx
10 incinerator.

11 In this case the application was five volumes
12 of information. As we go through the application
13 we make sure that their design and operating
14 procedures will meet the federal RCRA regulations
15 as well as any more stringent state regulations.
16 We send a list of deficiencies to the applicant
17 who then must respond with additional information.

18 After we go through this process a couple of
19 times, we have enough information to make a permit
20 decision.

21 In this particular case, regulatory changes
22 were occurring at the same time we were reviewing
23 the application. These changes were designed to
24 coordinate the emissions requirements between RCRA
25 and the Clean Air Act. As a result a compliance

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1 schedule was included in the draft permit to
2 ensure that applicant complied with new air
3 emission standards as soon as possible. The draft
4 permit also includes a schedule and procedure to
5 restrict emissions of metals before the final
6 emissions standards are achieved. Because of the
7 changing regulations and the required coordination
8 between the various Agencies and programs involved
9 with this facility, it has been a long process; but
10 we have developed a draft permit.

11 It is our obligation as the issuing Agency to
12 prepare a draft permit and call a public hearing.
13 That is why we are here tonight; to get your
14 comments on the draft permit. We are required to
15 issue a public notice of our draft decision and
16 the time and location of the hearing at least 45
17 days before the hearing is held. After the
18 hearing the record is left open for thirty days to
19 allow all interested citizens and the company to
20 comment on the draft permit. At that point we
21 will consolidate the comments and address them.
22 Now that may lead to changes to the draft permit
23 or the permit may stay the same. Our response and
24 final decision will take at least thirty days to
25 prepare, depending on how extensive the comments

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1 are.

2 At this time I would like to introduce Mary
3 Riegle who will give you some specific technical
4 information on the requirements in the proposed
5 permit.

6

7 MARY RIEGLE, Permit Reviewer

8

9 (MS. RIEGLE): Good evening, my name is Mary
10 Riegle. I am an environmental engineer with the
11 Illinois Environmental Protection Agency.

12 On November 4, 1997, Onyx Environmental
13 Services submitted a Part B renewal application to
14 store and incinerate wastes. Onyx is an existing
15 facility that has been operating since 1979. No
16 expansions or significant changes to the operation
17 are proposed. The application consists of a Part
18 A application, a description of the facility, and
19 waste management operations, a contingency or
20 emergency response plan, a training plan for
21 employees, a closure plan, a waste analysis plan,
22 and detailed process information.

23 The application was reviewed by both the
24 federal and state Environmental Protection
25 Agencies to determine whether the company has

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1 demonstrated that it can handle specific hazardous
2 wastes within the stringent requirements of RCRA.
3 Since the IEPA and USEPA found the application
4 meets the technical requirements, the Agencies
5 were required to draft or propose a permit for the
6 facility.

7 On June 3, 2003, a draft permit was issued to
8 Onyx. Today, the Agencies are going to the public
9 with this tentative decision and requesting input
10 on the draft permit.

11 Onyx receives hazardous and non-hazardous
12 wastes for repackaging, bulking, and incineration.
13 These wastes may either be solids, liquids, or
14 sludges. They can be received in tank trucks,
15 rail cars, or containers. Wastes from bulk trucks
16 are pumped into tanks for storage or fed directly
17 to the incinerator. All unloading and storage
18 areas must have secondary containment systems,
19 consisting of leakproof concrete structures
20 designed to collect spills. These areas will be
21 inspected routinely for spills or damage. The
22 volume of these containment systems must be equal
23 to the largest tank in the area of 10 percent of
24 the total volume of the containers stored in the
25 area.

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1 The Onyx facility has a total of three
2 operating hazardous waste incineration units.
3 Units No. 2 and No. 3 are fixed hearth, dual
4 chamber type incinerators. Unit No. 4 is a
5 transportable rotary kiln.

6 This permit would require the facility to
7 follow specific procedures in order to operate
8 safely. These procedures include the waste
9 analysis procedure, the employee training program,
10 and emergency response plan. The waste analysis
11 plan ensures that only wastes which can be
12 properly handled are accepted at the facility.
13 Waste which do not meet the acceptable criteria
14 are refused. Once a waste has been evaluated and
15 deemed acceptable, it can be transported from the
16 generator to the facility. At the facility, the
17 waste is again analyzed to ensure that it is the
18 same as the approved waste. Wastes which do not
19 meet the facility's acceptance criteria or conform
20 to the initial pre-acceptance analysis, must be
21 rejected.

22 The training plan and numerous safety systems
23 and devices at the facility ensure that the
24 employees are properly trained for their jobs and
25 in emergency procedures, and that the hazards

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1 associated with handling hazardous wastes are
2 minimized.

3 The facility's contingency plan is designed to
4 provide guidance for a quick, efficient response
5 in the event of a spill, fire, or other type of
6 emergency. The contingency plan is provided to
7 local emergency response groups to provide local
8 authorities with the information necessary to deal
9 with an emergency which may impact areas off-site.

10 Onyx has provided a copy of the contingency
11 plan to the local police and fire departments,
12 emergency response teams, and some area hospitals.

13 Onyx must review the contingency plan with each
14 group annually to ensure that all personnel
15 involved in an emergency situation are familiar
16 with the facility, the types of wastes handled by
17 the facility, and the contingency plan. As part
18 of the review of the facility's emergency response
19 procedures, the Agency required the facility to
20 model an off-site air release so that local
21 emergency response teams can evaluate the impact
22 this type of situation may have on the community.

23 The company must properly maintain records of
24 waste tracking documents (or manifests), employee
25 training, inspection records, records of operating

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1 conditions, and any incidents, and the maintenance
2 records of the containment systems and equipment.

3 The company must also perform an investigation
4 into all waste management activities, past and
5 present, to determine if these activities have
6 impacted the environment, (either the land or
7 groundwater). This is called corrective action
8 and addresses the entire facility, including those
9 areas which are not covered through this
10 permitting action.

11 The renewal permit contains a compliance
12 schedule. The purpose of the compliance schedule
13 is to bring the facility in to compliance with the
14 new MACT standards as soon as possible. The
15 timeframes have been kept to a minimum considering
16 the amount and complexity of work. It will result
17 in testing and emissions monitoring to be
18 transferred from the RCRA permit to the Clean Air
19 Act permit. It will also result in new metals
20 limits and other constituents consistent with the
21 Clean Air Act Permit.

22 Air emissions are controlled through waste
23 feed limitations, emissions monitoring, and air
24 pollution control equipment. Waste feed is
25 limited by both amount of waste fed per hour and

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1 concentration of contaminants in the waste. The
2 permit also requires a waste feed cut-off system
3 which would stop any waste feed into the
4 incinerator when certain operating conditions are
5 not met.

6 Onyx is required to monitor certain emission
7 limits. The facility operates a dry scrubber
8 system, carbon injection unit, and lime injection
9 unit to control air emissions.

10 In addition to Onyx's own inspections, the
11 facility will be inspected routinely by our
12 inspectors to ensure the facility's compliance
13 with all RCRA requirements. The Illinois EPA has
14 the authority to inspect the facility at any time
15 without advance notice.

16 The purpose of this public hearing is to gather
17 the public's comments on the draft permit. After
18 the hearing, the record is left open for 30 days
19 to allow all interested citizens, as well as the
20 company, to submit comments on the permits.

21 After the comment period is closed, the
22 Agency will consolidate the comments and address
23 each one. Changes will be made to the draft
24 permit if the Agency receives comments which
25 identify technical issues that were not adequately

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1 addressed. If no technical issues are identified,
2 no changes to the draft permit will be made. The
3 response to comments will probably take about 30
4 days, depending on how extensive the comments are
5 and how much work is involved for the Agency.
6 Thank you.

7

8 JIM BLOUGH, Permit Reviewer

9

10 (BY MR. JIM BLOUGH): Good evening, my name is
11 Jim Blough, I am a permit writer in the Waste
12 Management Division of the United States
13 Environmental Protection Agency located in
14 Chicago, Illinois, My purpose here today is to
15 discuss the USEPA portion of the RCRA permit for
16 the Onyx facility in Sauget, Illinois

17 As you have previously been told, the RCRA Act
18 of 1976 was amended in 1984. The 1984 Hazardous
19 and Solid Waste Amendments, known as HSWA, imposed
20 further requirements for the management of
21 hazardous waste.

22 The State of Illinois has received
23 authorization to administer several but not all
24 HSWA provisions. Those conditions for which the
25 State has not been yet authorized must be issued

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1 by the USEPA. At the present time the State of
2 Illinois is not authorized for the implementation
3 of regulations found in 40 CFR Part 264 Subpart
4 CC. Onyx Environmental Services have three
5 regulated units that fall under Subpart CC. The
6 units are containers, tanks, and miscellaneous
7 units.

8 The first set of the federal conditions deal
9 with container storage which falls under what is
10 known as Level 1 controls and require Onyx to meet
11 the applicable U.S. Department of Transportation
12 regulations.

13 The second part of the permit deals with Tanks
14 Requirements. Under this condition the tanks
15 design capacity of each tank must be less than
16 75 m3 and the maximum vapor pressure must be less
17 than 76.6kPa. The hazardous waste in the tank
18 shall not be heated to a temperature that is
19 greater than the temperature at which the maximum
20 vapor pressure of 76.6kPa is determined. The
21 hazardous waste in the tank shall not be treated
22 by any waste stabilization process.

23 The condition also has a closed vent system and
24 control devise requirements which is controlled by
25 the Carbon Absorption System. The permit requires

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1 that Onyx comply with the applicable waste testing
2 and storage requirements prior to all off-site
3 shipment of waste and prohibited from having
4 bypass devices that could be used to divert the
5 gas or vapor stream to the atmosphere before
6 entering the control device. The final set of
7 Federal conditions address the Miscellaneous Unit
8 Drum and Labpack Boxes Requirements. The permit
9 requires Onyx to:

10 1. Maintain these areas at a slightly negative
11 pressure under both ventilation and inerting
12 modes;

13 2. Maintain an oxygen deficient condition of
14 less than 5 percent oxygen under the inerting mode
15 and;

16 3. The fan discharge must be incinerated in
17 the permitted on-site incinerator (Unit No. 3).

18 At this time I would like to introduce Gary
19 Victorine.

20

21 GARY VICTORINE, Incinerator Specialist

22

23 (BY MR. VICTORINE): Good evening. My name
24 is Gary Victorine. I am an engineer with the
25 USEPA Region 5 up in Chicago. Up at Region 5 I

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1 coordinate and track the RCRA permitting of
2 hazardous waste incinerators and other devices
3 that burn hazardous waste.

4 I'd like to focus on several issues this
5 evening. First, I'd like to provide a bit of
6 history on the regulations regarding hazardous
7 waste incinerators, and also tell you about how
8 those rules are currently in transition. And
9 second, I'd like to talk about how risk assessment
10 has been part of the regulatory picture, both in
11 general and in the specific case of the Onyx
12 facility.

13 The Resource Conservation and Recovery Act
14 (RCRA) requires the USEPA to develop national
15 standards for hazardous waste combustion
16 facilities that are protective of human health and
17 the environment. In addition, Section 3005(c)(3)
18 of RCRA contains language we commonly refer to as
19 the "omnibus provision", which gives the USEPA and
20 the authorized States the authority to include
21 additional terms and conditions in each RCRA
22 facility permit, as necessary, to protect human
23 health and the environment.

24 In 1981 the USEPA issued RCRA combustion
25 standards for incinerators. Since that time,

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1 however, additional information has become
2 available which suggested that those standards may
3 not have fully addressed the potential risk from
4 indirect exposures to emissions. Now indirect
5 exposures can occur as a result of contact with
6 contaminated soil, plants, water, or food.
7 Because of our concern regarding indirect
8 exposures, the USEPA strongly recommended in its
9 1994 Hazardous Waste Minimization and Combustion
10 Strategy that site-specific risk assessments be
11 conducted for each combustion facility seeking a
12 RCRA permit.

13 Permitting authorities could then use the
14 results of the Site-specific Risk Assessments to
15 determine, on a case-by-case basis, whether the
16 operation of the incinerator in accordance with
17 the standards would be protective of human health
18 and the environment. In those cases where a RCRA
19 permitting authority identified a potentially
20 significant risk, it could invoke the "omnibus
21 authority" and augment the RCRA permit with
22 additional conditions.

23 In 1999 the USEPA revised and updated its
24 national standards for hazardous waste-burning
25 incinerators and other devices. The USEPA's final

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1 standards were promulgated on September 30, 1999,
2 increasing control over emissions of hazardous air
3 pollutants at 172 incinerators, cement kilns, and
4 lightweight aggregate kilns operating in the
5 United States.

6 These facilities burn about 80 percent of the
7 4 million tons of hazardous waste being combusted
8 each year. The remaining 15 to 20 percent of
9 waste is burned in industrial boilers and other
10 types of industrial furnaces that will be
11 addressed in a future rulemaking.

12 The new standards are based on the concept of
13 Maximum Achievable Control Technology (M-A-C-T, or
14 "MACT"), an approach required by the CAA. MACT
15 reflects the maximum degree of hazardous air
16 pollution reduction that can be achieved
17 considering the availability, current use, costs,
18 and environmental impacts of various emissions
19 control technologies. The MACT standards limit
20 emissions of dioxins and furans, mercury, the
21 semi-volatile metals cadmium and lead; the
22 low-volatile metals, arsenic, beryllium, and
23 chromium; particulate matter, hydrochloric acid
24 and chlorine, hydrocarbons, and carbon monoxide.

25 The new rule was unusual under the joint

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1 authority of the Clean Air Act and the Resource
2 Conservation and Recovery Act. The final rule
3 ensures that combustion facilities will be able to
4 avoid two potentially different regulatory
5 compliance schemes by integrating the monitoring,
6 compliance testing, and record keeping
7 requirements of the Clean Air Act and Resource
8 Conservation and Recovery Act into one permit--
9 the Title V Clean Air Act permit. The new MACT
10 rule and the Title V permit will replace the RCRA
11 permit as the primary regulatory tool regarding
12 hazardous waste incinerators.

13 Certainly, RCRA permits will continue to be
14 required, but once a facility demonstrates
15 compliance with the MACT rule, it may petition to
16 remove permit conditions from its RCRA permit
17 covering the combustor. Generally, the only
18 exception would be the situation where additional,
19 site-specific permit conditions regarding the
20 incinerator are needed to protect human health and
21 the environment, in which case those conditions
22 would remain in the RCRA permit or could be added
23 to the RCRA permit.

24 Since the MACT standards are technology-based
25 instead of being risk-based, the USEPA performed a

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1 national or nationwide risk assessment to
2 determine whether or not the standards also
3 satisfied the RCRA mandate to protect human health
4 and the environment. This national risk
5 assessment was a multimedia, multipathway
6 analysis, addressing both human health and
7 ecological risk.

8 Based on this national risk assessment, the
9 USEPA concluded that the technology-based MACT
10 standards met the protectiveness requirement of
11 RCRA. Because of this, the Agency concluded that
12 risk assessments would, in general, no longer be
13 needed for hazardous waste combustion facilities.

14 Although comprehensive, the national risk
15 assessment did contain several uncertainties and
16 limitations, and as a result, the USEPA could not
17 conclude that the MACT standards would be
18 protective of human health and the environment in
19 all cases. Thus, in some cases, a site-specific
20 risk assessment may still be necessary to confirm
21 whether operation of a particular hazardous waste
22 combustor in accordance with the MACT standards
23 will be protective.

24 In order to assist the Illinois EPA in
25 evaluating whether or not the new MACT standards

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1 will be fully protective for this particular
2 facility in this particular location, the USEPA
3 conducted a screening risk analysis. In addition,
4 because Onyx will not have to comply with the new
5 MACT standards until June 30, 2004, the screening
6 assessment was also used to develop certain
7 emission restrictions which could be included in
8 the RCRA permit in the short term.

9 We refer to this risk analysis as a screening
10 analysis for two reasons. First, it focused only
11 on those pollutants which the USEPA believes at
12 this time to have a likelihood of exceeding
13 acceptable levels for chronic toxicity or
14 increased cancer risk.

15 And second, it is a screening in the sense
16 that several simplifying assumptions have been
17 made in the process of conducting the assessment,
18 causing it to err on the side of over-predicting
19 risk.

20 A more detailed evaluation would generally be
21 expected to result in lower predicted risk.
22 Screening analyses are generally used as a first
23 step in the risk evaluation process and can be
24 used to determine whether a more detailed risk
25 analysis is called for.

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1 At this time, based on our experience with
2 the findings of similar risk assessments, USEPA
3 Region 5 has chosen to focus specifically on the
4 potential health impacts of polychlorinated
5 dibenzodioxins and polychlorinated dibenzofurans,
6 more commonly called dioxins and furans, plus the
7 specific toxic/carcinogenic metals regulated under
8 the new USEPA regulations.

9 The general model for the risk assessment
10 analysis is contained in the USEPA's 1998 Draft
11 Human Health Risk Assessment Protocol for
12 Hazardous Waste Combustion Facilities, which is
13 available on our website.

14 Because the evaluation of multiple chemicals,
15 multiple exposure pathways, and multiple fate and
16 transport processes is a very challenging
17 exercise, a commercial computer software program
18 was utilized to run the risk assessment model.
19 For this project, we used the software system
20 called Integrated Risk Assessment Protocol
21 (or "IRAP"), developed by Lakes Environmental
22 Software of Waterloo, Ontario. IRAP was expressly
23 designed to closely follow the recommendations,
24 chemical-specific parameters, and fate and
25 transport algorithms given in the USEPA's 1998

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1 combustion risk assessment guidance.

2 As for the findings of the risk screening,
3 first with respect to dioxins and furans:

4 Using actual emission data provided by the
5 facility, preliminary calculations predicted that
6 the potential increased risk of cancer from
7 dioxins/furans would be well below the Agency's
8 typical action level of level of 1 in 100,000.
9 The USEPA is not at this time recommending any
10 further reductions in dioxins/furans emissions.

11 With respect to toxic/carcinogenic metals,
12 the Hazardous Waste Combustion-MACT Rule regulates
13 emission concentrations of the metals arsenic,
14 beryllium, chromium, lead, cadmium, and mercury,
15 because of the Agency's findings, as discussed in
16 the preamble of that rule, is these metals present
17 a greater potential threat than others generally
18 omitted from a hazardous waste incinerator. The
19 preamble further concludes that emissions of the
20 other toxic and carcinogenic metals will be
21 adequately restricted via the new particulate
22 emission limit contained in that rule. However,
23 because the HWC-MACT Rule singles out these six
24 metals, we singled them out in this risk
25 screening.

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1 Some of these metals have potential toxic
2 effects, and others are considered to be
3 carcinogenic. For those that are toxic, the total
4 calculated impacts of a metal were compared to a
5 value of 25 percent of the Hazard Index . . . That
6 is, only allowing the incineration facility to
7 subject a person to 25 percent or less of the
8 maximum exposure thought to be safe. For those
9 metals thought to cause cancer, the results were
10 compared to a maximum increased cancer risk target
11 value of 1 in 1,000,000.

12 I've got a little bit on lead here but I
13 won't go into it in the interest of time. Lead
14 needs to be looked at a little bit differently.

15 And also for metals, rather than starting
16 with emissions and then calculating impacts and
17 risks, we conducted the assessment in reverse.
18 Region 5 started with the impacts and risks
19 considered acceptable, and then worked the risk
20 model backwards to determine what emissions would
21 result in those ground-level concentrations and
22 impacts. In this way, the analysis eventually
23 resulted in a set of suggested metals omission
24 limits.

25 Now, because actual metals emissions coming out

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1 the stack are difficult to measure on a routine
2 basis, RCRA permits have generally, instead,
3 imposed restrictions on the quantity of metals fed
4 into the incinerator. The relationship between
5 what is fed into the incinerator and what is
6 emitted out the stack is established via testing
7 which measures both feed and emissions
8 simultaneously. In the case of the Onyx facility,
9 feed limits were developed based on removal
10 efficiencies demonstrated during previous stack
11 testing for the various regulated metals.

12 When the Onyx facility complies with the MACT
13 rule, currently scheduled for June 30 of next
14 year, the feed rates of these metals will be
15 precisely tracked and averaged continuously by
16 computer. Until that time, the RCRA permit
17 imposes manual techniques and administrative
18 controls to achieve the appropriate feed limits.

19 After Onyx begins complying with the MACT
20 standards and conducts its MACT compliance test,
21 and after it submits the results of the compliance
22 test, the regulations state that it can petition
23 the Illinois EPA to remove most of the incinerator
24 conditions from the RCRA permit. The Illinois EPA
25 will at that time evaluate the test results to

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1 determine if some conditions should remain in the
2 RCRA permit.

3 Thank you very much for coming out and
4 participating in this meeting tonight.

5

6 ROBERT W. BERNOTEIT, CAAPP, Unit Manager
7 Permit Section, Bureau of Air

8

9 (BY MR. BERNOTEIT): Good evening, ladies and
10 gentlemen, my name is Bob Bernoteit, an acting
11 Unit Manager in the Division of Air Pollution
12 Control Permit Section. I will now give a brief
13 summary of the type of permit we are here to
14 provide information to you on. We, of course,
15 are also here to listen to your concerns and to
16 answer any questions that you may have. But
17 first, some background on the permit.

18 The 1990 Clean Air Act amendments created a
19 federal operating permit program known nationally
20 as Title V. This program, known in Illinois as
21 the Clean Air Act Permit Program, (CAAPP), focuses
22 on the industrial sources of air pollution of
23 greatest concern. Again, CAAPP is an acronym for
24 Clean Air Act Permit Program. CAAPP and Title V
25 are synonymous terms and are interchangeable in

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1 Illinois. That is, we refer to the permits that
2 result from this program as both Title V permits
3 and CAAPP permits.

4 The CAAPP requires that a single permit be
5 issued to each affected source that covers all
6 emission units and activities at the source.
7 Before a source could have many as 100 permits in
8 some cases. Onyx has had as many as 18 state
9 separate air operating permits. This often causes
10 confusion and permit conflicts. The single,
11 all-inclusive permit strategy required by Title V
12 simplified the process down to a single, enforceable
13 document. These CAAPP permits are very detailed in
14 scope and range in size from 50 to 1,000 pages.
15 The typical size of an operating permit before the
16 CAAPP was only 1 to 5 pages. Onyx's draft permit
17 is 165 pages. The state operating permits for
18 Onyx's Units 2 and 3 were 5 pages each.

19 The IEPA has committed in writing to USEPA to
20 issue its remaining CAAPP permits by the end of
21 this year -- 2003.

22 The issuance of a Title V permit triggers
23 many benefits that assist in the compliance and
24 enforcement of applicable requirements. Some of
25 these benefits are:

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1 All requirements are consolidated in a single
2 permit;

3 All conditions in the permit, with the
4 exception of those for fees, are federally
5 enforceable, state enforceable, and enforceable by
6 the public;

7 Often times more monitoring is required, if
8 not, the permit at least provides a check that
9 current monitoring is appropriate.

10 The more reporting required -- allows a
11 periodic self-check by the source of compliance.

12 The big 4 reporting requirements:

13 1. Reporting of Deviations.

14 2. Semi-Annual Monitoring Report;

15 3. Annual Compliance Certification, which is
16 one of the main tools for compliance and it only
17 becomes required after the Title V permit is
18 issued. This is one of the primary drawbacks of
19 CAAPP permits not being issued as quickly as
20 possible.

21 4. Annual Emissions Report -- many may say
22 this is already required, and it is, but once the
23 CAAPP permit is issued there becomes available to
24 the IEPA a single document to cross-check with the
25 Annual Emissions Report numbers for compliance.

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1 Both the semi-annual reporting and the annual
2 compliance certification only become required
3 after the issuance of the permit.

4 Also, I wanted to share with you what the
5 USEPA says about Title V permits: The purpose of
6 the Title V permits is to reduce violations of air
7 pollution laws and improve enforcement of those
8 laws. Title V permits do this by:

9 1. Recording in one document all of the air
10 pollution control requirements that apply to the
11 source. This gives members of the public,
12 regulators, and the source, a clear picture of
13 what the facility is required to do to keep its
14 air pollution under the legal limits.

15 2. Requiring the source to make regular
16 reports on how it is tracking its emissions of
17 pollution and the controls it is using to limit
18 its emissions. These reports are public
19 information, and you can get them from the
20 permitting authority.

21 3. Adding monitoring, testing, or record
22 keeping requirements, where needed, to assure that
23 the source complies with its emission limits or
24 other pollution control requirements.

25 4. Requiring the source to certify each year

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1 whether or not it has met the air pollution
2 requirements in its Title V permit. These
3 certifications are public information.

4 5. Making the terms of the Title V permit
5 federally enforceable. This means that the EPA
6 and the public can enforce the terms of the
7 permit, along with the State.

8 I will now go into what this permit does and
9 does not do: The permit does not do:

10 This permit does not allow any increase
11 emissions above those previously allowed.

12 This permit does not allow the construction of
13 any new equipment or the modification of any
14 existing equipment.

15 What this permit does do:

16 This permit establishes new conditions that
17 must now be adhered to as a result of the issuance
18 of this permit.

19 Whereas all previous permits were only
20 enforceable by the IEPA and USEPA, this permit is
21 now enforceable by the public.

22 This permit established new reporting
23 requirements and self-monitoring requirements that
24 are an integral part of the Title V program.

25 This permit is required to be issued under the

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1 National 1990 Clean Air Act Amendment -- Title V.

2 This permit is considered the primary
3 compliance tool for monitoring and verifying
4 compliance of the source.

5 Now some comments on tonight's hearing. We
6 are here to provide you information and perhaps
7 most importantly, to listen to your comments and
8 concerns. Your comments can, and often do, affect
9 the content of the permit or even the final action
10 that is to be taken on the application. So
11 please, make your concerns known to us.

12 It is also important that you make known your
13 concerns in order to retain your rights should you
14 wish to object to the CAAPP permit. In
15 explanation, the issues that you may cite in a
16 petition to object to the CAAPP permit may be
17 limited to those issues that you have previously
18 raised. Therefore, again, it is important that
19 you identify in writing any concerns that you may
20 have here tonight. If not here, let us know prior
21 to the closing of the hearing record, which will
22 be around 30 days from tonight. You may submit
23 such comments concerning the draft CAAPP permit
24 via a letter or e-mail to the Illinois EPA, Bureau
25 of Air, Permit Section.

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1 And finally, I want to give you some
2 information on what comes next after tonight's
3 hearing. The hearing record will close in roughly
4 30 days from tonight. We will then generate a
5 proposed CAAPP permit and send this to the USEPA
6 for their 45-day review period. This proposed
7 CAAPP permit will also show up on our website when
8 we send it to the USEPA.

9 The public has 45 days from the close of the
10 USEPA 45 day review period in which to petition
11 the USEPA to object to the CAAPP permit.

12 After the USEPA review period expires, we will
13 take final action on the CAAPP permit. Roughly
14 around the time we take final action on the CAAPP
15 permit we will mail out the Hearing Responsiveness
16 Summary. This document will also appear on our
17 website.

18 That concludes my opening remarks and I'd like
19 to turn it over to Anatoly Belogorsky.

20

21 ANATOLY BELOGORSKY, Permit Reviewer

22

23 (BY MR. BELOGORSKY): Good evening, Ladies
24 and Gentlemen. My name is Anatoly Belogorsky and
25 I am an environmental protection engineer with the

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1 Illinois Environmental Protection Agency at
2 Springfield. I have been working in the Permit
3 Section of the Division of Air Pollution Control
4 for more than nine years.

5 I would like to thank everybody for coming
6 here to express your interest in the environmental
7 issues concerning Onyx Environmental Services
8 Title V proposed permit. I will briefly discuss
9 significant emission units of the proposed permit
10 along with uniqueness of this source from the
11 regulatory standpoint.

12 Onyx Environmental Services in Sauget is a
13 treatment, storage, and disposal facility, which
14 accepts offsite generated waste for further
15 disposal through incineration.

16 The Illinois EPA had received the application
17 for a Clean Air Act Permit for Onyx Environmental
18 Services on September 7, 1995. The draft permit
19 has been prepared based on the source requiring a
20 Clean Air Act Permit as a major source of
21 hazardous and pollutant emissions.

22 The draft permit for Onyx contains nine
23 sections. These sections establish total emissions
24 allowed at this site from stationary emission
25 units, describe applicable and non-applicable

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1 regulations, unit-specific conditions, emission
2 limitations for individual emission units at this
3 source, testing, record keeping, monitoring, and
4 other requirements needed for demonstration
5 compliance with applicable state and federal
6 rules.

7 Significant Emission Units, as established in
8 Section 4, include the following: 1) Three
9 Hazardous Waste Combustors; 2) Material Processing
10 Areas; 3) Drum Crusher; 4) Storage Tanks for
11 Liquid Wastes; 5) Bulk Solid Waste Storage
12 Facility; 6) Fugitive Emissions; and 7) Boiler.

13 Total permitted emissions of regulated air
14 pollutants, as described in Section 5, are
15 established at the following rounded levels in
16 tons per year; VOM -- 47 tons; sulfur dioxide --
17 66 tons; particulate matter -- 47 tons; nitrogen
18 oxides -- 97 tons; and hazardous air pollutants,
19 not included in VOM or PM -- 52 tons. This source
20 is considered as a major source for hazardous air
21 pollutants emitted from the stationary emission
22 units operated at this site.

23 Section 7 determines applicability and
24 non-applicability of state and federal regulations
25 for significant emission units described in

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1 Section 4. Permit conditions of this section also
2 establish appropriate compliance procedures,
3 including inspection practices, testing,
4 monitoring, record keeping, and reporting
5 requirements. The Permittee must carry out these
6 procedures on an on-going basis to demonstrate
7 that this source operates within the limitations
8 set by the permit.

9 Hazardous Waste Incineration operation is the
10 centerpiece of this source. By June 30, 2004,
11 these incinerators shall demonstrate full
12 compliance with 40 CFR Part 60, Subpart EEE,
13 Hazardous Waste Combustions, Milestones of such
14 compliance are established in the Compliance
15 Schedule of Section 7.

16 The complexity of drafting this permit lies
17 in the unique nature of this facility where
18 different Federal Standards historically being
19 applied prior to the compliance date of the newly
20 promulgated MACT standard for Hazardous Waste
21 Combustion. These interim rules were promulgated
22 under the joint authority of the Clean Air Act and
23 the Resource Conservation and Recovery Act (RCRA).
24 MACT standard will be implementing a transition
25 from the RCRA permit mechanicsm to the Clean Air

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1 Act Title V permit mechanism as articulated in the
2 Subpart EEE and any relevant amendments.

3 It is important to remember that this permit
4 transition is only for the air emissions USEPA is
5 regulating under MACT rule. All other components
6 of the RCRA permit applicable to the combustion
7 unit and to other hazardous waste management units
8 remain in the RCRA permit. The USEPA clarifies
9 that they chose to avoid imposing duplicative
10 requirements under both RCRA and the Clean Air Act
11 where possible, by:

12 1. Placing the standards only in the Clean Air
13 Act implementing regulations at 40 CFR, Part 63,
14 Subpart EEE;

15 2. Specifying that the analogous standards in
16 the RCRA regulations do not apply once a facility
17 demonstrates compliance with the Hazardous Waste
18 Combustion MACT standards to Subpart EEE; and

19 3. Requiring the Hazardous Waste Combustion
20 MACT standards to be incorporated into operating
21 permits issued under Title V of the Clean Air Act
22 rather than into RCRA permits.

23 I hope that the public, local community, and
24 the permittee would be satisfied on how the
25 Illinois EPA is handling this challenging project.

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1 That concludes my brief presentation and I
2 thank you for your attention.

3
4 (BY HEARING OFFICER MATOESIAN): Thank you
5 speakers. Before we take comments from the public
6 I just want to enter a few exhibits into the
7 record. The first exhibit will be a copy of the
8 notice of public hearing which was placed in the
9 newspaper. The second will be a sheet showing
10 dates it was in the paper and newspapers that it
11 was in. Third, will be a copy of testimony of Mr.
12 Dragovich. Fourth, will be a copy of the
13 testimony of Ms. Riegle. Fifth, will be a copy of
14 the testimony of Mr. Blough. Sixth, will be a
15 copy of the Mr. Belogorsky's testimony, and then
16 seventh will be a copy of the proposed CAAPP
17 permit. Okay.

18 Now we will take comments from the public.
19 Several people have noted that they wish to make
20 public comments. We'll take them first, then
21 afterwards we'll take questions in general from
22 the public or anyone else who wishes to make a
23 comment. Again, please approach the microphone,
24 state and spell your last for the record and
25 please try to speak clearly.

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1 The first person I have listed as Jill
2 Miller. Is she here?

3 (BY MS. MILLER): I prefer to wait after all
4 of the questions start.

5 (BY HEARING OFFICER MATOESIAN): Okay. I'll
6 come back then. I have Kathy Andria.

7 (BY MS. ANDRIA): I prefer to wait.

8 (BY HEARING OFFICER MATAESIAN): Who are
9 you? What is your your name?

10 (BY MS. ANDRIA): Kathy Andria.

11 (BY HEARING OFFICER MATOESIAN): How about
12 Jack Norman.

13 (BY MR. JACK NORMAN): Mr. Hearing Officer,
14 my name is Jack, J-A-C-K, and N-O-R-M-A-N, I live
15 in Columbia, Illinois. I'm a volunteer with the
16 Sierra Club in the Kaskaskia group where I am the
17 conservation chair.

18 Onyx Environmental Services has asked for a
19 CAAPP operating permit for the Sauget, Illinois
20 facility for treatment, storage, and disposal of
21 hazardous waste. The key consideration regarding
22 this facility is whether or not public health and
23 the environment are adequately protected. If the
24 facility can do so, but does not, it should
25 not be -- it should be shut down. If it cannot do

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1 so it should also be shut down. Further, if it
2 does not operate without undue risk to facility
3 personnel, it should be shut down.

4 Until now, this facility has not operated so
5 that workers' safety, public health, and the
6 regional environment are protected. During
7 routine operations this plant emits substances to
8 the environment which are hazardous to human
9 health and destructive to the conditions necessary
10 for human and other life and for a healthy
11 community.

12 Some of this emissions allowed under the
13 previous permit and regulations intended to
14 implement relevant harm, but the facility has over
15 the years taken out quantities of those substances
16 in excess of permit limits, as the record shows.
17 This record offers no bases for acceptable
18 satisfactory performance in the future.

19 Moreover, there have been exceptional
20 incidents, including explosions, indicating both
21 the instability of some materials received for
22 treatment and management deficiencies.

23 These incidents in the recorded history of
24 the Onyx facility are adequately cautioned. On
25 the record, this facility should not continue to

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1 operate as before. Thank you.

2 (BY HEARING OFFICER MATOESIAN): Thank you,
3 Mr. Norman. Next, we have Christine Favilla.

4 (BY MS. FAVILLA): Good evening, Hearing
5 Officer, again, my name is Christine Favilla and I
6 live in Madison County and I work on staff for the
7 Sierra Club, Illinois Chapter, in charge of the
8 Three Rivers Project, which is based out of
9 Madison, Calhoun, and Jersey Counties, which is
10 obviously not in St. Clair, and I will get to why
11 I have concerns.

12 The incinerators consistently release large
13 amounts of arsenic, dioxin, and other highly toxic
14 air pollutants. It is also contributing to the
15 smog levels that are plaguing the entire St. Louis
16 and Metro and Metro East area.

17 Last summer parts of St. Louis recorded Code
18 Orange and Code Red smog warnings on at least 35
19 days, and smog pollutions causes breathing
20 problems, including more frequent and more severe
21 asthma attacks such as the county is seeing in
22 frequently high numbers.

23 So I have concerns with the immediate
24 community which the facility is based in and also
25 Madison and Jersey County as they are currently

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1 not in compliance with the Clean Air Act and I
2 would like to make aware of the impact the
3 facility has on those two counties and I would
4 like to see that those are reduced in the future.

5 Our communities demand respect and that
6 includes the right to live in a healthy
7 atmosphere, and regular inspections of Onyx
8 Hazardous Waste incinerators have not previously
9 occurred, and with the Illinois EPA regulatory
10 budget deficits it is difficult to see how the
11 Onyx toxic waste incinerators will be inspected
12 thoroughly even with its own self inspections and
13 and how it will come into compliance. And for
14 those reasons I urge you to deny the permit.
15 Thank you very much.

16 (BY HEARING OFFICER MATOESIAN): Thank you.
17 Next I have Kathleen Logan Smith.

18 (BY MS. LOGAN SMITH): Kathleen Logan Smith,
19 with a K. I'm on the Board of Health and
20 Environmental Justice of St. Louis. We represent
21 a population of people that are impacted by the
22 polluting facilities, and we're here to speak
23 against this particular facility.

24 It pollutes our neighbors on the east side of
25 the river but to the areas south of the river it

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1 pollutes as well. We're concerned about the air
2 impact of this facility, particularly because we
3 have a serious asthma problem in St. Louis, we
4 have asthma rates as high as, you know, seven to
5 ten times the national average in some areas.
6 This would add by air calculations 311 more tons
7 to our air pollution problem, and that's assuming
8 they operate well and according to the permit
9 limits, and their record indicates that that is
10 unlikely.

11 Obviously compliance is not their strong
12 point and so it's not a lot of reassurance to the
13 general public that you have a permit that is
14 within acceptable levels because we have no
15 assurances that they'll comply.

16 Beyond that, though, we also know that even
17 with those permits they are allowed to emit
18 dioxins, furans, metals, hazardous and organic
19 pollutants, and a whole host of chemicals that
20 impact our environment.

21 There was a study that came out a few weeks
22 ago recommending that the government issue
23 standards and recommendations to young women and
24 women of childbearing age to limit their
25 consumption of fats because of the dioxin in the

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1 food chain. So they're trying to tell all women
2 that we should avoid meat and eat a low fat diet
3 because of the dioxin in the food chain, because
4 they come out of facilities like this one, they
5 settle in the fields and work their way up in the
6 food chain. They get into our cattle and our meat
7 products, cheese products, dairy products, and our
8 breast milk when we feed our babies, and that is
9 something that you have an opportunity to deal
10 with right now.

11 I don't think we should be issuing warnings
12 to women that say your breast milk is contributing
13 to your baby's dioxin burden excessively. And the
14 only way we can stop this as a society issuing
15 warnings like that is if we stop allowing dioxin
16 in the environment.

17 And I understand it's your job to issue
18 permits, that's what your job description is, but
19 when we have someone like this one that can't seem
20 to comply and will threaten the health of
21 generations to come, emissions that come from this
22 facility, I urge you to take your job description
23 one step further and deny the permit.

24 (BY HEARING OFFICER MATOESIAN): Thank you,
25 ma'am. Next I have Claralyn Bollinger.

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1 (BY MS. BOLLINGER): Good evening, my name is
2 Claralyn Bollinger, that's C-L-A-R-A-L-Y-N,
3 B-O-L-L-I-N-G-E-R, and I'm here tonight just
4 primarily as a concerned St. Louis citizen, and
5 I'd like to express my concern about the
6 incineration facility operated by Onyx
7 Environmental Services in Sauget, Illinois.

8 I would like to clarify some things that you
9 said and maybe you can't really answer me directly
10 now, but perhaps in the question part you can.
11 First Mr. Victorine, I thought I heard you say
12 that full risk assessments are not needed for
13 toxic waste incineration facilities, at least
14 that's how it came across, and it seemed like you
15 said that the projected dioxin/furan emissions at
16 the Onyx facility are projected to be below the,
17 quote, the level of concern, and perhaps we might
18 benefit from further clarification as to what
19 really meets the Illinois and USEPA level of
20 concern, because I think primarily most average
21 people think anything is a level of concern.

22 Further, Onyx like many other regulated
23 industries, would seemingly be responsible for
24 conducting their own emission monitoring and
25 reporting to the Illinois EPA and to the USEPA,

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1 and I think it would be interesting to find out,
2 you know, are they going to have kind of spot
3 monitoring by you all or is it going to be kind of
4 like the fox guarding the hen house and they can
5 have a tremendous toxic emission and be like,
6 oops, sorry, oh well, you know, we'll pay the fine
7 and we'll be able to keep having our permit in
8 place.

9 That brings me to what, if anything, in the
10 permit requires them to have a plan of action if a
11 massive exceedence happens. Are they going to be
12 required to somehow evacuate all of the citizens
13 in Sauget? What about us on the other side of the
14 river? Are our Department of National Resources
15 going to somehow like be on the phone figuring
16 out, you know, it's coming, it's a big black cloud
17 or green or something, or run type of thing. I
18 don't think that's too practical really.

19 Mr. Belogorsky, you had said that the Onyx
20 facility is a major source for hazardous air
21 pollutants in the area -- correct you are nodding
22 your head -- okay, and as other people have said
23 and will probably say again, obviously the
24 Mississippi River is not this dividing line and so
25 we're affected on the west side just as neighbors

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1 over here on the east side are affected.

2 And I think, too, given the time of crisis
3 seemingly we are facing as a country it would kind
4 of be of question in my mind, and probably other
5 people, is if this facility is burning toxic waste
6 is it somehow going to be some sort of target for
7 terrorism or is the facility somehow hazardous if
8 something happened from outside bandits or vandals
9 that -- you know, we hope that doesn't happen, but
10 you know, things like that could happen. So, I
11 would like to hear your answers about those
12 things. Thank you.

13 (BY HEARING OFFICER MATOESIAN): Thank you,
14 ma'am.

15 (BY MR. VICTORINE): Thanks. Let's see, your
16 first question had to do with risk assessments not
17 being necessary. That was part of the preamble of
18 the regulations that the EPA in Washington D.C.,
19 wrote. Part of the reason that they updated the
20 regulations was they were not sure that the older
21 regulations covered absolutely everything, until
22 such time the new regulations come out that called
23 for site specific risk assessments if there was
24 reason to believe that any of the emissions, even
25 though they met the old standards, might create a

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1 problem.

2 The purpose of developing the new regulations
3 was to hopefully get away from that where everyone
4 would be meeting standards that are protected.
5 The primary tool to be protected are the
6 regulations themselves. The risk assessments have
7 always been nothing more than something over and
8 above the regulations that we use as a back
9 check.

10 Dioxin level of concern, you had the
11 question, nationally for dioxins, the numbers, the
12 risk management points that have been recommended
13 that have been used, although they're not
14 promulgated at this point, are cancer risk
15 increase due to any one facility, due to the
16 dioxins of one and one hundred thousand. The only
17 place that was promulgated was in the BIF Rule,
18 they had waste combustion rules that deal with
19 boilers and industrial furnaces. The number of
20 tenths to minus fifth, (1 and 100,000) is
21 contained in that rule. Although it was never
22 officially brought into the other rules the values
23 have been used nationally so that all facilities
24 are held to that same standard, but the purpose of
25 the federal regulations is to try to hold everyone

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1 to consistent standards.

2 Who does the monitoring? Perhaps the State
3 might want to get involved in this one. Each
4 permit is a little different. Regulations are --
5 the regulations under the new Air Act rules, I
6 believe, say that testing has to be done once
7 every five years as far as actual stack testing,
8 but in addition to that, dioxin testing has to be
9 done once every two and a half years, and that
10 there has to be continuous monitoring of various
11 process parameters which control the emissions.
12 The equipment doesn't quite exist yet to put on a
13 stack, to hang on a stack to continuously monitor
14 the emissions. I think we all look forward to the
15 time when that equipment does exist, but until
16 then a lot of regulations
17 done by regulating the operating parameters, the
18 temperatures, the flow rates, the velocity to such
19 within the equipment.

20 The emergency plan, that's probably part that
21 the state permit -- there's a contingency plan.

22 The other one that I -- question that you
23 brought up I would like to try is the one we call
24 Homeland Security. My understanding is that the
25 EPA headquarters in Washington D.C., is

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1 considering whether regulations should be
2 developed for like all RCRA hazardous waste
3 facilities addressing your kind of concerns. It
4 seems that there is a bit of back and forth about
5 whether it's the EPA regulations or whether it
6 would be the Department of Homeland Security which
7 has now been given all of these kind of
8 authorities. So that kind of thing has been
9 worked out, but the issue is being considered in
10 the EPA headquarters.

11 (BY MR. BELOGORSKY): I have the question
12 about the source, the major source of hazardous
13 air pollutants. Yes, that's absolutely true, it's
14 a major source of hazardous air pollutants across
15 Illinois, so basically the nature of hazardous air
16 pollutants from this source is not unique or
17 something let's say terribly bad in comparison
18 with many other facilities in Illinois. Because
19 of -- I can give you an example, refineries or
20 chemical plants, they maintain much more high
21 levels of hazardous air pollutants than Onyx.

22 So nothing in the Clean Air Act requires the
23 type of permit just because the facility is a
24 major source. The major source for the country,
25 for the entire country, is 10 tons of individual

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1 CAAPP or 25 tons of total CAAPP emitted from the
2 facility.

3 So this is a threshold to be reasonable for
4 the Title V program and this is the only pollutant
5 that makes this facility major source and eligible
6 for the Title V program.

7 (BY MR. DRAGOVICH): I'll try to address the
8 question on emergency response and security
9 issues.

10 The facility is required to have contingency
11 plan or emergency response plan to address
12 different scenarios that could happen, fires,
13 explosions, releases, and a copy of that plan has
14 to go to everybody that will be involved in
15 responding to that emergency, such as local fire
16 departments, police departments, a hospital that
17 they plan on taking people to, and an emergency
18 contractor that may be called upon to respond to
19 the plant.

20 And then our hope is that they will comment
21 on that plan if the plan is not adequate. We
22 compare the plan to the regulatory requirements,
23 but beyond that the local fire department would
24 look at that plan, it's their responsibility to
25 deal with evacuations off site. And they have

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1 coordination agreements among themselves as to how
2 they'll fight fires and do evacuations and then
3 the facility itself is required to annually send
4 an update of that contingency plan to those people
5 and give them the opportunity to comment on and
6 come and inspect the plant as necessary.

7 As far as the security issues go, there are
8 regulatory requirements that the facility be
9 secured. Normally they use several different
10 things, fences, guards, security cameras, and they
11 have to make those requirements before a permit
12 will be issued.

13 (BY MR. BELOGORSKY): I would like to make a
14 brief comment about dioxin emissions from the
15 source. Currently under the RCRA regulations we
16 don't have any dioxin emission levels
17 concentration for this, and under the new
18 promulgated MACT standard USEPA established
19 emission limitations, including dioxins -- and by
20 the way, USEPA just proposed some time ago
21 different emission -- federal emission standards
22 for hazardous waste, combustions as we see today
23 or chemical waste incineration devices for
24 commercial solid waste incinerators for different
25 group of incineration devices, which certain

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1 emission levels including dioxins, so basically we
2 moved non-regulated areas for different
3 pollutants, including dioxins, to regulated
4 areas. So basically we just followed what the
5 USEPA is doing and just following their standard
6 and implementing the standards in Illinois, and in
7 the St. Louis area. I believe St. Louis, having a
8 number of health care facilities and hospitals,
9 and I'm not sure in Missouri, but probably medical
10 waste incinerators are in operation in this area
11 emitting certain amounts of dioxins.

12 (BY HEARING OFFICER MATOESIAN): Thank you.

13 Next I have Mr. Robert Freeman listed.

14 (BY MR. ROBERT FREEMAN): Thank you, Mr.
15 Hearing Officer, for providing this forum
16 tonight.

17 My name is Robert Freeman, F-R-E-E-M-A-N, and
18 I live in Madison County and I would like to
19 comment a little bit upon the presentation of the
20 meeting. Early on we could not hear anything at
21 all. I am surprised that you didn't have any
22 graphics or visuals to present to help the people
23 understand a little bit more what the issue is
24 about. A lot of us are laypersons that don't
25 understand all of the technical babbling that's

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1 going on. We don't understand the acronyms
2 totally, so we would appreciate if you had more
3 information that was available in advance.

4 Each of the presenters read directly from
5 some preprepared text that you had and I would
6 respectfully request that at least myself receive a
7 copy of your printed text prior to making final
8 comments in 30 days. And I would also request
9 that you offer that same privilege to any other
10 citizen here that feels like they would like to
11 read more directly, because it's hard to
12 comprehend if you are walking in here cold, and
13 you folks work with this every day of the year and
14 you know the terms and everything and you know
15 what's going on.

16 Also, I'm going on 70 years old and I can't
17 read all of the materials that you present through
18 the Internet. The younger folks can do that, well,
19 us older folks cannot do that. I think that there
20 should be more places available for people to
21 acquire the printed information that is available
22 on the draft, and I'm not sure of whether or not
23 the Library of Record at Southern Illinois
24 University of Edwardsville has a copy of this
25 where one can go in and read this.

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1 I would request that -- because of some of
2 these issues that I've mentioned, that you extend
3 the comment period an additional 30 days and make
4 it a 60 day period and that will give your people
5 time to print out and mail to those that request
6 the information that are given additional time to
7 do some considering on it.

8 One thing that puzzled me was the fact
9 that -- and I forget who it was that said that all
10 of the permits, four permits, are consolidated
11 into one permit, and to me that seems a little bit
12 not in line with what citizens would like. If
13 something changes in any one of the four different
14 permit requirements, how would we do that? Would
15 you have to hold another entire meeting like
16 tonight to do that?

17 So, I would request that -- it's probably a
18 little thing, but I would still like to request
19 that these various areas of concern here, the
20 various permits would be segregated and each time
21 that Onyx or any other company decided to change
22 their equipment or their input of fuel or the
23 toxic waste of different processes, you know, they
24 would be handled as an individual permit.

25 Also, I did not understand the does not and

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1 does all that somebody talked about, and I would
2 like an answer on that perhaps.

3 Living up in Madison County we're in a
4 nonattainment area, St. Clair County here is non-
5 attainment air quality area, Jersey County is a
6 county with a small population and virtually no
7 industry, no significant industry, is a non-
8 attainment area and on red alert days for ozone,
9 Jersey County gets hit hard, and what it is, it's
10 as you described in a previous meeting recently,
11 you are getting transported pollution from other
12 areas -- as the people from St. Louis spoke of --
13 we're getting transported pollution within the
14 metro east area into Madison County and into
15 Jersey County and into Calhoun County, which is
16 not even designated, and in Macoupin County, so
17 we're getting those areas of transported pollution
18 into those counties.

19 And I would like information on a term that
20 you guys used on this transported thing, and I
21 believe it's a wind direction and I believe you
22 referred to it as a wind rose, R-O-S-E, that
23 doesn't make any sense to me, but that's the
24 direction of the different winds that go into
25 different areas.

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1 I live within a mile of Jersey County and
2 Madison County and I bring my wife along with me
3 of 49 years, she's been on oxygen for about 10
4 years now, 24 hours a day, and I'm pretty sure
5 it's transported pollution from Missouri.
6 Portage des Sioux power plant is right across the
7 river. We're in a nonattainment area anywhere in
8 St. Clair or are we talking about increasing the
9 pollution, or what is it that we've done? I think
10 there was a denial that it would increase any
11 pollution, but I'm not quite as confident as you
12 are that that is going to happen.

13 Down the road I believe back into Madison
14 County is a facility down there, Chemetco, you're
15 probably all familiar with that ugly word,
16 Chemetco Industries went down hard, they made a
17 lot of mistakes, they did a lot of polluting over
18 the years, and I'm really not confident in the job
19 that the Illinois EPA did on the Chemetco thing,
20 and I believe USEPA eventually had to step down on
21 the situation and they're closed down right now.

22 In the case of Onyx I'm concerned about
23 industries walking away and leaving, just leaving
24 the pollution, and they close down and they go
25 bankrupt and I don't know what protections we have

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1 that Onyx will continue to be a good citizen in
2 the community.

3 In the local area, for instance, the Lead
4 Works shut down, we have two Guinness world
5 records in Alton, they have the tallest living man
6 would be Robert Wadlow, 8 foot 11 inches, we have
7 the tallest smoke stacks in the world, the Lead
8 Works, and they walked away from it. The Tannery
9 walked away from that in Hartford, the Box Board
10 walked away from their facility in Alton, the
11 steel mill walked away from their facility and
12 just closed the door and shut it down, the glass
13 company did the same thing.

14 What protection do we have from this type of
15 corporate insensitivity to the environment? So,
16 that's about all I have. But I hope to hear some
17 comments later on in the question and answers.
18 Thank you.

19 (BY HEARING OFFICER MATOESIAN): Thank you,
20 Mr. Freeman. We'll respond to those questions in
21 the question and answer section.

22 The next paper that I have is -- I believe
23 it's Aaron Maxey.

24 (BY MR. MAXEY): Good evening. That's
25 Aaron with an A, M-A-X-E-Y. I represent a

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1 community of East St. Louis in the form of Metro
2 HOPE formally known as Project HOPE, and I have a
3 couple questions for you this evening.

4 First of all, from my understanding there's
5 approximately 16 sites in the United States for
6 incinerators and I was wondering what is the
7 actual distance to the closest community around
8 those other 16 sites or other 15 sites. I know
9 there's a lot here, but in proximity or distance
10 wise, what is the closest community to these other
11 sites that may not be in this area? That's a
12 question that can be answered later.

13 And the second question is, what does
14 previous history as relates to these companies,
15 these industries, played a part in actually
16 receiving a permit?

17 (BY HEARING OFFICER MATOESIAN): Thank you,
18 Mr. Maxey. Again, we will cover those in the
19 question and answer section. The next speaker
20 then is Mr. Bruce Nilles, I believe.

21 (BY MR. NILLES): My name is Bruce Nilles,
22 N-I-L-L-E-S, I'm an attorney with the Sierra Club
23 based in Chicago, I'm responsible to work in clean
24 air issues throughout the State of Illinois.
25 Sierra Club is about 26 thousand members here in

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1 this state and 700 thousand nationwide, and we
2 worked for the last three decades to help pass the
3 Clean Air Act and continue its enforcement, so we
4 very much would like to thank you all for taking
5 the time to hear the public and to receive
6 comments on these two hazardous waste and clean
7 air permits.

8 That said, there was a few things said about
9 this process that have not been a good example of
10 how to do outreach. First of all, this permit is
11 five years late. The state has refused to invest
12 the resources to issue permits that should have
13 been issued in 1998. The federal EPA stood by and
14 stuck their head in the sand and did nothing about
15 it. For five years this facility has operated
16 without a permit.

17 Secondly, the permits issued, people who have
18 tried to read them, there's a lot of jargon in
19 there, there's many ways to summarize to put stuff
20 into plain English, that would make a world of
21 difference. I would ask any of the reporters here
22 to take a look at these permits to see if they
23 understand, because the whole purpose of these
24 permits is for communities to understand that
25 smoke stacks in their facility and in their

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1 community, what is coming out of it, what are the
2 limits, and what can I do if something goes wrong,
3 and that's not necessarily understood at all in
4 the two permits that are out there.

5 Another thing on process. The RCRA permit,
6 the second permit, why wasn't it put up on the
7 Web? I appreciate some people don't have access
8 to the Web, but I was told the place I had to go
9 get it was the USEPA headquarters in Chicago.

10 First of all, I had set an appointment, then
11 they charged me 15 cents a page for each copy,
12 that's 240 pages just for the permit. There's a
13 box of materials, just the permit alone cost 35
14 dollars to get a copy of it. That's not public
15 access. Why wasn't the RCRA permit put up? That's
16 not engaging in honest public outreach.

17 There's missing records, enforcement records.
18 A big issue tonight is can this company be trusted
19 to protect our community. Those were not
20 organized and many of them were missing from the
21 public files. We know that in 2000 the USEPA
22 stepped in and said we're going to do a multimedia
23 and inspect your facility, and have the air,
24 water, and waste folks come out and take a look at
25 this, and they spent two days investigating that

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1 facility in 2000. Where is that report?
2 Apparently the draft report was not allowed to see
3 the draft report. Why is there no access to those
4 documents? It's not in the records, we requested
5 it and it was denied, saying it was enforcement
6 sensitive. That was three years ago. Why have we
7 not been given access to those records?

8 And then a couple of points about existing
9 rules. The USEPA said that there were rules
10 designed to protect the public, those MACT rules
11 are interim rules. They are interim rules because
12 the 1990 rules were set aside by the Court of
13 Appeals in D.C., and we sued and said they weren't
14 protective of human health and environment. The
15 Court agreed and issued standards and are now in
16 the process of issuing final, so to say it's
17 protective is misleading.

18 So here we are with the Sierra Club in a
19 somewhat unique position asking for you to deny
20 those permits. We are asking you to shut this
21 facility down. This is a big step for us, we
22 don't usually say the only answer is to shut them
23 down, it's usually put up some new pollution
24 control items, pay a fine, and get into
25 compliance. But here is why we're asking to deny

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1 the permits. We have been digging through the
2 records, as disorganized as they are, we found 135
3 violations, and we're still counting. In 20 years
4 they have had 135 violations.

5 We've had workers harmed, we've had dozens of
6 explosions, we've had pallets of pesticide waste
7 catch fire, the list goes on. We have them
8 falsifying documents. If you and I falsified tax
9 returns what happens to us? We go to jail. What
10 happened to Onyx? They get a slap on the wrist.

11 In 1990 the State Attorney General at the
12 time imposed a court order for violations dating
13 back before 1990. A year later the Attorney
14 General was back in court because they refused to
15 abide by the 1990 court order, charged with three
16 point four million in fines. If you look at when
17 many of those violations occurred, right after
18 1991, 1992, 1993, 1994, dozens more violations.
19 Clearly they didn't get the message.

20 In the mid 1990's, 1995, the EPA slapped them
21 with a 35 hundred dollar fine, which is
22 ridiculous, probably didn't cover their lawyers.
23 This is a 10 million dollar operation. If you want
24 to impose penalties and mean something, it has to
25 hurt. And how many times do we get a company

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1 violate the law which threatens the community and
2 it continue to do what they're doing? We said
3 enough is enough.

4 Two weeks ago to the credit of the Attorney
5 General, Lisa Madigan did impose a half million
6 dollar fine for violations between 1996 and 1998.
7 That still leaves all of the violations since
8 1998.

9 And so here we are today, we're working out
10 -- USEPA has a website that says they haven't
11 been in significant noncompliance basically since
12 1991. In 2002 the IEPA lists 22 ongoing
13 violations. So what are we waiting for? They're
14 not getting the message with these penalties.

15 You have two cases, we urge you to shut them
16 down. If there is falsification of documents it's
17 time to put someone in jail. If you and I do that
18 we go to jail. Why not Onyx?

19 The notion that we can rely on existing
20 enforcement people to protect us is really
21 misleading. There are 17 major sources of air
22 pollution and water pollution in Sauget -- 17. In
23 the last two years less than half of them have
24 been inspected. That means you are inspecting the
25 facility less than every two years. And what do

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1 we have here out of Washington D.C., the Bush
2 Administration wants to cut resources, so you have
3 even less dollars to protect our communities.

4 The bottom line is this company demonstrates
5 it can't comply with the law. We're dealing with
6 very toxic materials, the most dangerous materials
7 to human, dioxins, furans, mercury, it doesn't get
8 any worst. It harmed workers and released dozens
9 of clouds of smoke over the neighborhood. Do we
10 need dead bodies? How many more violations do we
11 need? Is 135 not enough? What is enough? I'd
12 appreciate an answer as to when do we say they've
13 sacrificed, they relinquished, they forfeited
14 their right to operate -- or their privilege.
15 It's not a right, it's a privilege. Part of doing
16 business is you agree to comply. They failed to
17 comply, so I urge you to, in the interest of the
18 community at large, that these chemicals don't
19 just stay in Sauget, they don't just stay in St.
20 Louis, mercury travels around the globe. I urge
21 you to do what you have the authority to do and
22 shut the facility down and protect all of us from
23 Onyx. Thank you.

24 (BY HEARING OFFICER MATOESIAN): Thank you,
25 Mr. Nilles. The next speaker is Jim Bensman.

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1 (BY MR. BENSMAN): My name is Jim Bensman,
2 I'm conservation chair for the Piasa Palisades
3 Group of the Sierra Club and we would like for you
4 -- to request that you deny these permits. I
5 would also point out that I, too, could not
6 understand most of the presentations, they were
7 incomprehensible with all the noise and the poor
8 sound system in here, which I think that that was
9 not acceptable.

10 And I'm just wondering how many of you would
11 live with your family next to this place? In the
12 question and answers section I would like for each
13 of you to say whether or not you would live next
14 to it. Thank you.

15 (BY HEARING OFFICER MATOESIAN): Thank you,
16 Mr. Bensman. We have Dr. Blount.

17 (BY DR. BLOUNT): Good evening. I'm Dr. Lee
18 Blount, I'm a retired surgeon and now for the last
19 12 years I've been in alternative medicine,
20 specifically prophylactic and preventative. I'm a
21 member of a grass root community based
22 organization in St. Louis and we don't restrict
23 ourselves just to St. Louis, but the Metro area.

24 Recently because of the ongoing effort over a
25 couple of years the people in here in the audience

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1 have been working for the last three or four years
2 to get -- specifically over the last two years, a
3 medical waste incinerator in St. Louis -- some of
4 you all may know about that -- they were burning
5 medical waste from the hospitals over in North St.
6 Louis in an area that houses the very low income,
7 minorities, and people without a voice. Two major
8 medical pediatric hospitals were from the other
9 city areas. So because of the public -- and I see
10 that one of your regulations, I think the CAAPP,
11 says that the permits are enforceable by the
12 public.

13 The people hear, and that's what happened.
14 We got to the politicians, we embarrassed some, we
15 had some that come on, and we put pressure. I
16 mean, we had people from all over, we had Wash U
17 law students, med students, we had politicians, we
18 had welfare mothers, we had everybody, and we got
19 them to close down the medical waste incinerator.
20 What they were doing is they were burning medical
21 waste, but what they do now is autoclave, which is
22 much, much better, we don't get this toxic waste
23 from the stacks.

24 So that's one of the points I wanted to make
25 to the public, because really we're the ones that

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1 are affected. The point that was mentioned about
2 where you live. For sure many of these plants are
3 in low income, poverty, minority areas. There are
4 none in the suburbs or Creve Coeur, Frontenac, if
5 you know those areas.

6 We all know, even if you are a layperson, you
7 don't have no medical relationship at all in terms
8 of background, but we hear the word lead, mercury,
9 and dioxin, we know that they don't sound good,
10 they don't sound like vegetables and food and low
11 fat that's good for your health.

12 We know that dioxin, and this plant was going
13 -- what was going on in this plant here, the
14 cancer side affects, the asthma, the birth
15 defects, the neurological defects, the sterility
16 defects. Lead is just a real -- we now are
17 tackling the lead situation in St. Louis. That's
18 where we are now. And the minorities in St. Louis
19 and the national average is 12 to 14 percent
20 involvement of youngsters in industrial cities,
21 and certain areas of St. Louis is 25 percent of
22 the kids are lead poisoned. So I'm sure the same
23 fits with this area, too.

24 And as was said by some others, this is a
25 regional area, the pollutants don't just stay in

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1 St. Louis, they don't just stay in Sauget, they
2 are all over, they travel world wide, not to
3 mention the situation that Kathy Logan talked
4 about.

5 So this is a significant situation that's
6 going on and becoming epidemic in certain areas.
7 Children, mothers have lead, but they have low
8 birth rate and premature births. These kids have
9 neurologic defects. Those are the gross defects,
10 but one of the most incidious defects is the
11 learning disabilities. And these are many times
12 not noted. They've tracked a lot of these
13 youngsters and they've found out that this stays
14 on into adulthood, this child couldn't learn or
15 his IQ was 75, but they have done some studies and
16 research shows that a lot of these are lead kids,
17 and so we're getting these pollutants, besides the
18 lead paint, but we're getting it from the stacks.

19 So in closing I would like to say that I
20 think sometimes we the public we don't know how
21 powerful we are. We don't know -- well, I mean
22 politicians listen to the public. I appreciate you
23 all being here, it's your job, but it's like, you
24 know, everybody in here, especially the public,
25 the people in the community, they're important.

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1 And when you put the pressure and enforce your own
2 regulations and say that the permit is enforceable
3 by the public, it states it there. So I just
4 encourage you to get involved, because it's not
5 going to happen. This plant is not going to
6 close. We were ready to just lie down in the
7 street over in St. Louis, I was, I went to jail
8 for projects like this. So sometimes you have to
9 do that, because everybody has a right to live a
10 full life, but if you have people dying at 30 and
11 40 of cancer, and I know that when I was doing
12 traditional medicine, I saw a lot of these people,
13 and now research is showing that a lot of this is
14 related to toxic dysfunctions. Thank you.

15 (BY HEARING OFFICER MATOESIAN): Thank you,
16 Dr. Blount. Now Jill Miller would like to speak.

17 (BY MS. MILLER): My name is Jill Miller,
18 J-I-L-L, M-I-L-L-E-R, one of the easier names to
19 spell. I'm a conservation organizer for the
20 Sierra Club in St. Louis, Missouri, and I'm
21 representing the Eastern Missouri group, more than
22 5000 members there.

23 I grew up in St. Louis and I have family in
24 the area and thanks for letting me make some
25 comments on this very important issue.

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1 Those of us who live in St. Louis, we've
2 heard on the evening news over time about
3 explosions and releases of poisonous gases in this
4 area, and we've been really concerned about this
5 incinerator facility for some time. We've heard
6 about workers being hospitalized and, you know, we
7 heard the community has been affected.

8 No one should have to live in ever present
9 fear of explosions and releases of toxic
10 substances into the air they breathe, and no one
11 should go to bed at night worrying about when the
12 next one is going to happen.

13 And Onyx Corporation does not have a good
14 track record, repeated violations, and that seems
15 to just be an ongoing problem. And you know, we
16 are also concerned about the health risks from air
17 pollution, and they aren't limited to this
18 immediate vicinity, because the St. Louis area is
19 affected on the other side of the city.

20 This incinerator contributes to smog that we
21 suffer with every summer, and according to the
22 American Lung Association of Eastern Missouri
23 ozone travels with the wind, and because of this
24 ozone cannot be viewed as a strictly local
25 problem.

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1 So smog is of much concern to those of us on
2 the Missouri side of the river, and smog causes a
3 host of breathing problems, including more
4 frequent and more severe asthma attacks. One
5 study shows that there is a direct link between
6 days when there's a high ozone level and emergency
7 room visits for respiratory problems.

8 Last summer one of those emergency room
9 visits on a day that was coded an Orange Alert day
10 was my niece, who was 14 months old at the time.
11 And she doesn't live in St. Louis, her family
12 lives at an Air Force base where her father is in
13 the service. They were in St. Louis visiting, and
14 within 24 hours of them arriving she had to be
15 rushed to Cardinal Glennon Children's Hospital by
16 ambulance. She had had respiratory problems since
17 she was born, but this was an unusually severe
18 attack, and her condition did improve, but she had
19 no choice but to play indoors for the rest of her
20 visit.

21 So there are thousands of children and
22 elderly people and people with respiratory illness
23 in the St. Louis area who live here year round and
24 are suffering from smog problems in St. Louis.
25 And this incinerator does contribute to the

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1 problem, and so granting more pollution permits
2 will only continue to make the problem worse.

3 So we are asking you to deny these permits
4 and we're asking for the plant to be shut down due
5 to its repeated violations. Thank you.

6 (BY HEARING OFFICER MATOESIAN): Thank you,
7 Miss Miller. Do you wish to speak now?

8 (BY MS. KATHY ANDRIA): My name is Kathy
9 Andria, Kathy with a K, Andria with an I. I'm with
10 the American Bottom Conservancy. Our
11 organization is a conservation organization based
12 in East St. Louis and we work to protect the
13 community of the resources of the American Bottom
14 Flood Plan.

15 About eight years ago I was working on an
16 incinerator, working to stop an incinerator from
17 being built, and at that time I was told that the
18 EPA was working on a dioxin document. We were
19 waiting, it was going to be next month, next
20 month, next month. It's eight years later, we
21 don't have the dioxin document. And I heard -- I
22 don't remember who said it -- but somebody said
23 that they were trying to have fairness to the
24 companies so that all of the companies would be
25 treated equally. In seven, eight years, or

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1 however many years that we have been waiting for
2 the document, what about the people? I mean, we
3 are breathing this, our children are absorbing it
4 from their mother's milk, the mothers are
5 absorbing it, the children, the fathers, everybody
6 is getting this into our system. It's changing
7 what's happening to children as they are born.

8 There's a new study that Ms. Logan referred
9 to, there are studies all the time that are saying
10 dioxins are very bad. Dioxins come from
11 incineration. You know that, I know that. Why are
12 we being fair to the industries? That isn't fair
13 to anyone.

14 I have a combination of questions and
15 statements, so I'm going to kind of dovetail back
16 and forth.

17 You said that this is the Clean Air Act Title
18 V. I've taken Title V training, I've taken two
19 workshops, one was -- I don't even remember how
20 many days, the other one was a couple days. I
21 have documents like this, I have reference books,
22 it's very difficult for citizens to go through
23 piles of papers, and I don't have an engineering
24 degree, I'm a citizen. I'm volunteering for the
25 most part in everything that I do with the

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1 environment. It's really an unfair burden to put
2 on citizens to have to enforce a permit to look
3 through and tell you what's wrong, what you should
4 be telling us, what you should be telling the
5 company. There are limits to these things.

6 One of the things that has happened, a good
7 thing that has happened, finally the Illinois EPA
8 has an environment justice policy. I'm very happy
9 that we have an environment justice policy, but
10 can that be used to stop a plant like this? I
11 don't think so. Aaron Maxey and I were in a
12 meeting with environment justice groups from
13 around the state and we asked Renna Zipriano
14 [phonetic], how can we use this, can this stop a
15 new plant from being built if it's being put into
16 an area that is already overburdened? Well, uh,
17 you know. What is it for then?

18 East St. Louis, Sauget, Centreville,
19 Washington Park, all of these communities on this
20 side of the river, all of the people living in St.
21 Louis are truly overburdened by all of these
22 chemicals.

23 You were addressing one plant, and Mr. Nilles
24 said there's 17 sources, that's just here, they
25 are across the river, they're down wind from many,

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1 many plants. There's a new cement kiln that is
2 going in that is going to be sending things our
3 way. Have you addressed and are you addressing
4 cumulative effects when you do a health
5 assessment? Do you just do it for that one plant
6 or do you do it for say Big Rivers, Inc., and Onyx
7 and Solutions, and on and on. There are too many
8 in this city and in Sauget, in Granite City, in
9 Wood River, in Hartford. There are so many people
10 suffering because of lack of regulation, because
11 of, quote, fairness to corporations, and too many
12 children who are really hurting.

13 By the way, Mr. Freeman's request for an
14 additional 30 days, I could use six more months
15 frankly. When I came in I met up with the
16 gentlemen who were with Onyx and they reminded me
17 that I was one of three people at a hearing that
18 they had about five years ago. My father was
19 dying at that time but he was a trooper, he went
20 with me to all of these public hearings that I
21 would go to, and they remembered that. But the
22 thing that really puzzles me is one of the things
23 we were asked to do, since the old operators who
24 were just fined half a million dollars, the old
25 owners were asked to draw a line and separate them

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1 from the new ones. But they're the same
2 operators. I mean, there was some kind of 49
3 percent, 51 percent, some kind of ownership, I
4 don't see how the change in ownership -- it's the
5 same plant, it's the same machinery, and it's the
6 same operators, and much of it I think is the same
7 emissions.

8 Not only do you have the cumulative effects,
9 but you have synergistic effects. What happens
10 when this chemical meets up with this chemical in
11 the air? How does that affect the body? Have we
12 studied that? No, we really haven't. When, by
13 the way, are we expecting the dioxin report? Do
14 we know?

15 (BY MR. VICTORINE): Up in Chicago the
16 regional office is not involved in that, that is
17 from Washington D.C. We're concerned about that,
18 too, about how long it's been taking. My
19 understanding is there's a draft out there that's
20 available, it's on the Internet and everything
21 else, that I think is still in public comment. I
22 would like to see it, too. I agree with you.

23 (BY MS. ANDRIA): I do hope that the same
24 people who took out the global warming problem
25 from the new policy are not the same people that

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1 are reviewing the dioxin report.

2 When was the health risk performed, health
3 assessment, and where is it? I think someone
4 indicated that there was one, a risk analysis?

5 (BY MR. VICTORINE): Yes, there was a
6 screening analysis done. I will check with my
7 management about it if you would like a copy.

8 (BY MS. ANDRIA): I really do think that the
9 whole thing is supposed to be publicly
10 enforceable, but if we don't have all of the
11 documents it's very hard for us to know how to
12 comment, what to comment on, unless we have all of
13 the materials.

14 And Mr. Freeman is absolutely right, any kind
15 of facility here the air emissions go all over.
16 We don't have a wall in the sky that keeps them
17 right here in Cahokia, so that people from St.
18 Louis and people from Alton and people from
19 Granite City have to come here to view those
20 documents, and absolutely the record documents
21 belong on the website.

22 It used to have four units, and what happened
23 to the fourth incinerator? I notice that you just
24 have three.

25 (BY MR. BELOGORSKY): Right now only three

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1 units in operation and number one was eliminated,
2 I believe, or what --

3 (BY MR. HARRIS): I'm Doug Harris, I'm
4 general manager of the facility. We began
5 operation in 1978 or 1979 with one incinerator,
6 known as Incinerator Number 1. In 1993, late
7 1993, that incinerator was closed down,
8 specifically because it did not meet the current
9 standards.

10 (BY MS. ANDRIA): Is there an operating
11 permit for four?

12 (BY MR. HARRIS): Yes.

13 (BY MS. ANDRIA): I don't know how many
14 months ago anymore, but I had sent in a Freedom of
15 Information Request to IEPA and went up to
16 Springfield with someone who came down from the
17 Chicago area to help me who had been through a
18 Title V before, and we went in looking at the
19 files, and I've been through file reviews, IEPA
20 before, and I've always been pretty much able to
21 find the things that I needed. I was really
22 dismayed at this. There were whole chunks of
23 material that were missing. Missing was the
24 annual emissions report, the inspection report
25 from 1997, the operating permit for Unit 4, the

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1 multimedia inspection report, stack tests that are
2 referred to, and we've been trying to get April
3 2001 and May 2002. We've been trying to get those
4 for months, and I talked to Mr. Frost the other
5 day and he said that apparently there was none.
6 So I don't understand how something is referred to
7 in a file that it happened, but yet it didn't
8 happen. So, we have some real concerns about the
9 completeness of the file.

10 There were quarterly reports that are
11 missing, manifests, treaties, that were not there,
12 there was another inspection report that was
13 missing, and all of the documents relating to the
14 November 2002 meeting with Onyx regarding
15 violations and compliance issues were missing.

16 So what happens with the public when they see
17 that, it might be very innocent and those records
18 are somewhere in somebody's desk, that they're
19 working on it, but our impression is, especially
20 when we keep trying and we ask to please provide
21 those to us and they don't show up, then we don't
22 trust you. I hate to say that, but that's what
23 happens.

24 Now, if there is nothing amiss here and those
25 records are here, please provide them to us so we

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1 can look at them and we can make our comments
2 based on the complete record.

3 And my memory is -- I guess as I get older it
4 sometimes fades -- but when we first started this,
5 when the Title V draft came out, there was no
6 record permit. Somebody in a department said, oh,
7 we don't need one. Why was there not one? We
8 complained and thank you very much that we now
9 have one, but what was that? Is that some kind of
10 something? I don't understand. And is it that
11 you have too many of them that you are trying to
12 do by the end of the year or -- if that's what's
13 happening, there's too much work, because I agree
14 with you there's way too much work for you, for
15 the agencies, for you to try to do all of this,
16 and frankly, you are trying to do it all now too
17 fast.

18 In this area we've got this Title V, we've
19 got the Baldwin plant, we have the Dynegy, we've
20 got all of these coming up. You have how many
21 permit reviewers who are working on this? You
22 have all these people, we just have a few of us
23 who have the time, who have the desire, who have
24 the compulsion, who are crazy, whatever, to sit
25 down and go through this stuff. So, you know, you

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1 have to use some kind of judgment and respect for
2 the public for a publicly enforceable permit to
3 let us have a little time to be able to go through
4 this and let us have some more help.

5 I know we will be happy to lobby to get you
6 more money. I think you know this administration
7 is taking away our environmental protections every
8 day in view of the regulations, in view of the
9 cutting of the budgets. They're cutting all of
10 these things and what's happening is our air is
11 going to get dirty, its getting dirtier, our water
12 is definitely dirtier.

13 Someone said about the 52 tons of hazardous
14 air pollutants, what they are talking about is
15 mercury. We've got two lakes, state park lakes
16 here that -- many of the community cannot afford
17 to go out and buy steaks and all kinds of protein
18 for their families, they go and they fish in those
19 lakes, they're state parks, they're contaminated
20 with mercury. They get the bottom feeders,
21 they're feeding their family, they're getting
22 those fish. The IDPH has an advisory on their
23 website. They have -- the Illinois Department of
24 National Resources when you go in to get a fishing
25 license has a little warning on the back of the --

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1 somewhere in the little booklet when you get your
2 fishing license -- that says this fish advisory --
3 only eat one a month from this lake unless you are
4 a woman of child bearing age, and then kind of
5 skip it or however.

6 But you go to the lakes and you see all of
7 these people around fishing, there's no sign that
8 tells them that where they're fishing -- there's
9 nothing that tells them that Frank Holten State
10 Park has PCB's, it's contaminated with PCB. Where
11 do they come from? Why are they there? Nothing
12 tells them that, well, maybe you can eat these
13 fish if you take the fat off and the skin off.
14 How many people in this community in this whole
15 area eat the fish with the skin and everything
16 taken off and not fried? They fry it and that
17 seals in the poison.

18 And if you keep allowing every single company
19 that comes for another permit for a renewal and
20 don't hit them with fines and don't close them
21 down when they need to be closed down, you are
22 contributing -- each of you is individually
23 culpable of contributing to the poor health and
24 the future of this community, of these
25 communities, of the children here.

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1 One teaspoon of mercury is enough to
2 contaminate a whole lake we're told. How many
3 pounds of mercury come out of the stack? How many
4 get out of the side vent that doesn't go up the
5 stack? How many upsets are there? Do we know?
6 Do they tell you every time there's an upset? The
7 self reporting is very, very troublesome, and it's
8 not just with this company that I'm troubled. I
9 know it's partly because you don't have enough
10 personnel to go out and inspect, but something's
11 got to be done. I mean, you have to make noises
12 about doing it. Get your people out there and
13 start inspecting and do it without announcing it.
14 I know those things get cleaned when you announce
15 when you're coming.

16 One of the things I found kind of
17 interesting, and I'm really pleased, very pleased,
18 that the chemical waste group, the medical waste
19 incinerator group came over, the people who worked
20 very, very hard and they deserve so much credit
21 for the work they did in getting the medical waste
22 incinerator closed.

23 This incinerator here got attention when
24 there was a smell a few years back and everybody
25 was on the news at nine and the ten o'clock news,

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1 what is that smell, what is that smell? I was
2 getting calls, is that Granite City? Sauget? All
3 of the people in St. Louis wanted to know. Well
4 it turned out that it was here.

5 But some of my concern is that it was
6 something that they could smell. What if they
7 cannot smell? What all is going out there that we
8 don't know about that we can't see? When black
9 smoke comes out you see those things. You don't
10 see some of these toxins. And I, too, request a
11 copy of the report that was asked for, the 2000
12 report, and I would really like to know something
13 about how you were treating the violations that
14 went on and is there a line that the new ones are
15 treated a different way, are they given a
16 different weight, are they getting credit for
17 being new owners? I mean, do new owners have to
18 be really new? Can we just kind of move over to
19 bigger seats?

20 And finally, I would really like for you to
21 tell the people here, who really want to know that
22 are told this is enforceable by the public, what
23 exactly does that mean? How do we enforce it and
24 how do we change what's happening here and how
25 does it become ours? And I would really like some

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1 answers to that. Thank you.

2 (BY HEARING OFFICER MATOESIAN): Do we want
3 to take a five minute break or do you want to keep
4 going right now?

5 (BY MS. RETTLE): I didn't say I want to
6 comment, but I would like to make one.

7 (BY HEARING OFFICER MATOESIAN): State and
8 spell your name, please.

9 (BY MS. RETTLE): My name is Jeanette Rettle,
10 J-E-A-N-E-T-T-E, R-E-T-T-L-E. I'm a member of the
11 Sierra Club. I'm not here in any capacity for the
12 Sierra Club. I'm a resident of Belleville and I
13 think it's important that you know people in other
14 communities close by are concerned for people in
15 these areas, in areas that are not able to fight
16 back when things like this are put upon them, and
17 we need to band together to protect everyone, and
18 this is the metro-east area and so things that
19 affect St. Louis affect us, and things that affect
20 us will affect them.

21 And I did have a question I really wanted to
22 know about. I would just ask what does the public
23 do to enforce this? Do I go down there and
24 breathe every day and see if I get cancer or what
25 do you do? So I hope you will answer that

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1 question.

2 And I had a question for Mr. Victorine,
3 because you are the only one I could hear and
4 understand, and I appreciate that. You said that
5 there are tests, I think, on -- and correct me if
6 I'm wrong, on dioxin every two and a half years
7 and on something else every five years by the
8 USEPA; is that correct?

9 (BY MR. VICTORINE): Yes.

10 (BY MS. RETTLE): Are those announced or
11 unannounced visits?

12 (BY MR. VICTORINE): That's the wording in
13 the regulations for these new hazardous waste
14 combustable MACT rules actually under the Clean
15 Air Act. Those would be tests that a facility
16 would hire a consultant to do those tests, and
17 generally the regulatory agency will observe those
18 tests and provide audit materials, in some cases,
19 to sort of test the testers, if you will.

20 (BY MS. RETTLE): Okay.

21 (BY MR. VICTORINE): Now I think that right
22 now because of the lawsuit from the Sierra Club
23 which sort of puts some of those regulations on
24 hold, I think that that provision has been stayed
25 by the judge as far as the testing every two and a

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1 half years on dioxins.

2 (BY MS. RETTLE): So that's not even being
3 done?

4 (BY MR. VICTORINE): Right now you know the
5 judge responded to the Sierra Club lawsuit by
6 vacating all the regs. And the EPA worked to get
7 some interim regs in place but that particular
8 provision was not put back in. I think it will be
9 put back in in 2005 when the new rules are put
10 in.

11 (BY MS. RETTLE): So that when it does happen
12 and it's scheduled, it is the company itself, the
13 facility hires a consultant to do it and someone
14 just watches; do I understand that correctly?

15 (BY MR. VICTORINE): It's observed, it's
16 witnessed by the appropriate team at the
17 regulatory agency that know how to do that kind of
18 thing.

19 (BY MS. RETTLE): Thank you. I have another
20 question regarding the Illinois EPA. With the
21 terrible budget deficits that Illinois has, what
22 does the Illinois EPA, how do you regulate those
23 facilities and how often are they regulated by the
24 Illinois EPA? If they are.

25 (BY MR. BERNOTEIT): When the permit is -- or

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1 whether the permit is issued it will have a term
2 of five years. That means every five years the
3 permit will be renewed, at which time they'll put
4 the draft permit out to public notice like we have
5 before the initial issuance of the permit. The
6 public can at that time submit comments, request a
7 hearing, like you have done at this time. In
8 addition, all Title V sources in the State of
9 Illinois, which there's approximately 725, they
10 get inspected once per year, that's a requirement
11 from our management, at least once a year.

12 If there are problems at the facility or if
13 there's citizen complaints for the facility the
14 inspector will investigate. Our compliance
15 enforcement people, as a general practice,
16 formally request the facility stack test once
17 every five years to assure that the air pollution
18 control equipment is functioning properly and
19 meets the standards.

20 (BY MS. RETTLE): Are those announced or
21 unannounced visits?

22 (BY MR. BERNOTEIT): They can either be
23 announced or unannounced.

24 (BY MS. RETTLE): Okay.

25 (BY MR. DRAGOVICH): As far as the facility

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1 is inspected twice a year at a minimum, they can
2 be announced or unannounced, and they can be
3 inspected more often if there's a problem.

4 (BY MS. RETTLE): To further confuse the
5 issue, but thank you for your attention. I guess
6 I was just a tad offended that the remark was
7 made, that there are other facilities that are as
8 bad or worst than this one, and this minimizes
9 what's going on here. I don't think that's a
10 correct approach. I think we should be
11 approaching that, as it has been said before, that
12 we all deserve to live in a safe place with a safe
13 food chain with safe water with safe air. I do
14 not think we should have to rely on the
15 pharmaceutical companies to come up with medicines
16 for asthma, cures for cancer. What we should do
17 is stop it at the beginning where the carcinogens
18 and toxins start, and you have the opportunity to
19 do that, and we do hope that you do that, we hope
20 that you close them down. Thank you.

21 (BY HEARING OFFICER MATOESIAN): Thank you.
22 Is there anyone else who wishes to make a comment?

23 (BY MS. GREEN): My name is Judice Green,
24 J-U-D-I-C-E, G-R-E-E-N, I'm with the Health and
25 Environment Justice Group of St. Louis. Our group

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1 is responsible with Dr. Blount for shutting down
2 Stericycle. It had been polluting North St. Louis
3 and a number of -- quite a few areas of St. Louis,
4 and I'm here because I am personally concerned for
5 this community and St. Louis.

6 And I heard Mr. Victorine speak about lead.
7 He didn't really go into details about it but I
8 have a major concern about the emission of lead.
9 Pretty much every other house that I go to the
10 children are lead poisoned, and we shut down
11 Stericycle because a lot of the children in the
12 community had asthma, and I am really concerned
13 because of the fact that we had to take I consider
14 drastic steps to shut down Stericycle, and this
15 community will pretty much have to do the same
16 thing.

17 And I have a list of questions, and the first
18 one is, why are the stack tests only happening
19 every five years? Maybe someone can answer that.

20 Another one is, does IEPA always give permits
21 to polluters with track records as bad as Onyx?

22 And the third one is, how many surprise
23 inspections are conducted each year?

24 And I have another one. Isn't this more a
25 particular matter too high, why or why not? Is

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1 the standard too high? And like I say, I do have
2 a personal concern and I feel like I don't have to
3 come -- I feel like it's up to you all to deny
4 this permit, because I don't want to have to come
5 across the water to do what we did in St. Louis to
6 close down Stericycle. I do urge you to deny this
7 permit. Thank you.

8 (BY HEARING OFFICER MATOESIAN): Thank you,
9 Ms. Green. Is there anyone else that wishes to
10 make a comment right now? Does anyone have any
11 questions? Come up.

12 (BY MS. FAVILLA): A lot of the regulations
13 and a lot of the testing, I wondered if there was
14 actually a chart out there that shows the six
15 months to one year, and two and a half years, the
16 five year tests which were done by the EPA,
17 Illinois or U.S., which are done by a hired
18 consultant, which ones were watched over, which
19 ones -- is there something out there that we can
20 look at, because I think this would eliminate a
21 lot of confusion. And if it's all in the Web,
22 that would be great, and if there's not, if
23 there's a particular office we can look for that
24 at.

25 (BY MR. BELOGORSKY): All testing conditions,

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1 you can copy and paste from the federal
2 regulation. You can go to the proposed permit and
3 look into testing requirements.

4 (BY MS. FAVILLA): I need to go through the
5 Title V regulations and copy and paste. So there's
6 not a chart out?

7 (BY MR. BELOGORSKY): We copy and paste from
8 the federal regulations, so the federal
9 requirements of Title V permit are identical
10 requirements of the USEPA and the federal
11 regulations.

12 If you are interested in stack testing
13 condition requirements, I can point out during the
14 break or after the meeting the certain section you
15 can look for. If you look at it it will be easier
16 for you to better understand.

17 (BY MS. FAVILLA): And I did have one other
18 question. It was said a couple different times
19 during the opening remarks and comments that
20 because this plant puts out a smaller amount of
21 toxicities compared to others in the region it's
22 not looked at as something that should be denied.
23 And I wonder where will we ever start if there's a
24 cumulative effects study on all of the different
25 plants, so if we allow facilities to emit the

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1 maximum to the glass ceiling, to the very top, and
2 everyone is allowed to do that just because it
3 might be a little less than some of the others.
4 If you don't start looking at denying permits on a
5 minimum level, then you aren't ever looking at the
6 cumulative effect of the health of the community,
7 and I wonder if there is any effort to look at the
8 community effects?

9 (BY MR. BERNOTEIT): Normally when a new
10 major source is constructed they go through what
11 is called PSD review, PSD standards, or Prevention
12 of Significant Deterioration. Onyx does less than
13 half of the threshold to trigger those
14 regulations. They are not a major source.
15 Therefore, the cumulative effects on the ambient
16 air quality as a result of Onyx was not studied,
17 or when Onyx was originally constructed likewise
18 with the plants neighboring Onyx. For example,
19 you are a little bit familiar with the Solutia.
20 Solutia was constructed a long time before the PSD
21 recommendations ever came in, and I'm not aware of
22 any project that Solutia had that triggered the
23 PSD, but if they had triggered PSD, review
24 modeling is done, all the background
25 concentrations are studied, including

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1 concentrations coming from Onyx, from Big River,
2 coming from Joint American Bottle, I think was
3 next door, all of these are studied during a PSD
4 review of project at Solutia. I'm not familiar
5 with any projects recently, so that hasn't been
6 done.

7 (BY MS. FAVILLA): So when you say that the
8 toxicity levels are about 50 percent of what
9 others are now applying for permits with --

10 (BY MR. BERNOTEIT): For the VOM, nitrogen
11 oxide and carbon monoxide.

12 (BY MS. FAVILLA): Do you take into account
13 the other permits? I know that there are another
14 four or five that came across my desk within the
15 last week and a half. Have you taken into account
16 those even if they're only in 50 to 75 percent,
17 how they might interact even though they don't
18 quite meet that?

19 (BY MR. BERNOTEIT): We have no legal
20 authority to do that.

21 (BY MS. FAVILLA): Thank you very much.

22 (BY MS. ANDRIA): Kathy Andria, I wonder in
23 how many quarters does the facility have to be in
24 significant non-compliance before there's some
25 action?

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1 (BY MR. BERNOTEIT): None of us are in
2 compliance enforcement group, so we're unable to
3 answer your question.

4 (BY MS. ANDRIA): There's an attorney from
5 the Attorney General's Office, would he know that
6 answer?

7 (BY MR. BERNOTEIT): I'm not aware that there
8 was an attorney.

9 (BY MR. MORGAN): Jim Morgan from the
10 Attorney General's Office, and I don't know the
11 answer either.

12 (BY MS. ANDRIA): Can you find that answer,
13 because my understanding from the record, it looks
14 like there has been significant non-compliance
15 that kind of keeps on going and going and going.

16 (BY HEARING OFFICER MATOESIAN): The issues
17 of compliance and enforcement are better suited
18 for written response, because the public hearing
19 doesn't cover compliance enforcement issues. So I
20 think a lot of the questions would be better
21 handled in a written response.

22 (BY MR. BERNOTEIT): It was asked a couple
23 different times during the comments how does a
24 member of the public enforce the permit. And Mr.
25 Nilles touched on what I was about to explain.

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1 Basically you have to invest some time and effort
2 to FOI files and request copies of reports and
3 emission reports, exceedence reports, inspection
4 reports, and it takes a lot of work. We have a
5 full-time staff that are dedicated to doing that
6 and we can't catch all of the violations
7 ourselves.

8 Let me qualify that comment. A member of the
9 public cannot enforce the permit if we don't issue
10 the permit. So, that would be a reason why it's
11 necessary for us to issue a Title V permit.

12 (BY HEARING OFFICER MATOESIAN): I think they
13 need a little clarification of the benefits of
14 issuance of the permit.

15 (BY MR. BERNOTEIT): The public enforcement
16 component is a benefit of having to issue a Title
17 V permit for this facility. If one is not issued
18 to the facility, the public doesn't really have
19 power to enforce violation of air pollution
20 regulations.

21 (BY MR. CORTNER): Marvin Cortner, Suburban
22 Journals Newspapers. In reference to the missing
23 2000 USEPA inspection, Mr. Harris is here
24 representing Onyx, perhaps he might be forthcoming
25 and shed some light on that.

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1 Secondly, I would like Mr. Harris to take the
2 opportunity to explain what Onyx, what
3 improvements as far as compliance, have been made
4 under the Onyx new management.

5 (BY MR. HARRIS): My name is Doug Harris, I'm
6 general manager for the Onyx facility.

7 (BY MR. CORTNER): The missing 2000 USEPA
8 report that the Sierra Club attorney says cannot
9 be obtained because it's enforcement sensitive,
10 perhaps you as a representative of Onyx might be
11 forthcoming to inform the community about what was
12 determined or was what was found in that
13 inspection.

14 (BY MR. HARRIS): What he's speaking of is
15 the USEPA multimedia audit, that audit that was
16 performed in July of 2000. That audit, we have
17 requested a copy of that at least on a half a
18 dozen occasions. We understand the draft exists
19 to that. We'd be very interested to get that
20 ourselves. The only light I can shed on that is
21 that at the close of the meeting when we spoke
22 with the inspectors they told us that they had no
23 significant issues and no violations found during
24 multimedia audit. But we have not seen the report
25 and would very much like to.

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1 (BY MR. CORTNER): What improvements as far
2 as compliance have been made under the new Onyx
3 management when they took over operation of the
4 company?

5 (BY MR. HARRIS): Well, I'll speak to the
6 pollution control system of our Unit Number 4
7 incinerator, it has had a carbon injection system
8 added to it for dioxin control.

9 One thing that's come up a couple of times
10 was the testing of once every five years or once
11 every two and a half years on these incinerators.

12 Actually we have tested these incinerators
13 even eight or ten times in the last two years, and
14 since we have three incinerators that would be all
15 of the incinerators, so that's three plus times
16 per incinerator over the last two years, and
17 basically those tests have been done to
18 demonstrate compliance with the MACT standards,
19 which at the present time they are in compliance
20 with the MACT standards.

21 (BY MS. ANDRIA): Could you provide them to
22 us?

23 (BY MR. HARRIS): Certainly. What I'll do is
24 I'll leave a few of my cards up here on the chair
25 and anybody that would like to visit the facility,

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1 please give me a call, we'd love to have you come
2 visit the facility. If there's any particular
3 documents or reports that you couldn't find or you
4 would like, I'm certain if we have them we will be
5 happy to copy them for you and it doesn't cost 15
6 cents per copy.

7 (BY MS. GREEN): Judice Green. Are you able
8 to do the autoclave, which is a state process?

9 (BY MR. HARRIS): No, we do not have an
10 autoclave process.

11 (BY DR. BLOUNT): I was just reviewing some
12 statistics, starting in 1995, 1996, and up through
13 2001 you had 19 incidents of explosions with toxic
14 waste being distributed to the environment.
15 Nineteen different ones. And then we talk about
16 compliance? I mean, the regulatory agencies have
17 not seen fit to release statements saying that you
18 are not in compliance, that you are in
19 compliance. I mean, could you talk about those
20 19? That seems an inordinate number of
21 explosions. Can you talk about those?

22 (BY MR. HARRIS): I think explosion might not
23 represent these incidents. What happens is in an
24 incinerator --

25 (BY DR. BLOUNT): They're noted here like

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1 August 10, August 20, 1999, July 2, 2000,
2 something exploded, released -- a cloud of gases
3 was released, released this cloud, most of them
4 toxic gases into the environment. Maybe they were
5 not explosions, maybe I'm just -- misinformation.

6 (BY MR. HARRIS): I'm not sure who did the
7 paper that you actually have. An incinerator is
8 operated in negative pressure, so it is typically
9 one to two inches of water column negative
10 pressure, so there's suction into the
11 incinerator. An occasion in these instances would
12 be if something were to be placed in the
13 incinerator and let's say it's in some type of
14 bottle or can, let's say an aerosol can would be
15 an example. In many cases I'm sure that some of
16 these are aerosol conditions, they would go in and
17 they pressurize, they may instantaneously cause
18 the incinerator to go positive, maybe for one,
19 two, three seconds, or whatever, and if we have a
20 camera on our incinerator and if we detect a
21 positive pressure, what we do is we review the
22 camera and if there's any sign of physical
23 emission, and some of these are visible
24 emissions. If you just review the camera on
25 normal speed you can't see them, you have to push

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1 it fast forward to actually detect it. Some of
2 them are far less than maybe a standard tractor
3 trailer or standard tractor starting up or
4 whatever. You can detect those and give a report
5 of each and every one of these to the agency.

6 So those are most likely positive pressure in
7 the incinerator. I don't think explosion would be
8 the correct word for them. Those positive
9 pressures resulted in some type of emission from
10 the combustion of the incinerator. Whether it be
11 one second or five second emission, those are all
12 reported.

13 (BY MR. FREEMAN): I wonder, I've heard
14 gossip that some of the materials that you are to
15 be using is coming from the Caribbean, as far away
16 as that. And secondly, I've heard a story that
17 you are going to do some processing of nerve gases
18 from the military, and I wonder if there's any
19 truth to that?

20 (BY MR. HARRIS): The first -- the Carribean,
21 or Puerto Rico more likely -- we do have a branch
22 in Puerto Rico. We get a very, very small amount
23 of material from someone that far away. I would
24 have to think it would be less than a half of a
25 percent of material, but there are some

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1 circumstances where material has in fact come from
2 that far away to our facility. Very rare. Very
3 rare.

4 Second question on the processing of nerve
5 gas. I guess first, there is no such thing as
6 nerve gas, which it's nerve agent, which is a
7 liquid material.

8 Approximately six to nine months ago we were
9 contacted by the Department of Defense and asked
10 if we would consider disposing of neutralized VX
11 nerve agent. Now once it's neutralized, it's an
12 irreversible chemical reaction that renders its
13 material almost identical to what you would
14 commonly buy as drain cleaner. It would probably
15 be best characterized as drain cleaner that you
16 could buy at Lowes or Home Depo and malathion
17 pesticides that you can get it mixed together that
18 would be the chemical, it is no longer nerve
19 agent. It is against federal law to transport
20 nerve agent.

21 We were asked by the Department of Defense if
22 we would consider disposing of that since we
23 entered into a treaty with other nations to
24 dispose of that in the year 2006 or 2007, I
25 believe. Our answer to the Agency was if we're

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1 called upon and you determine that our facility is
2 the best facility in this country to dispose of
3 that we would in fact entertain that. At that
4 time we will announce it to the public and we
5 would hold a public outreach program and discuss
6 it with the public.

7 At the present time the Department of Defense
8 is attempting to come up with a new process with a
9 company in Ohio to dispose of this material. Thus
10 far they've been unsuccessful with that process so
11 there are no plans at the present time to do that,
12 but there is a chance in the next three or six
13 months that we may again be contacted by the
14 Department of Defense.

15 Our answer to the Department of Defense,
16 we're not particularly interested in doing it;
17 however, if we were called upon by the government
18 and we were deemed by our government to be the
19 best facility to do that, we will respond.

20 (BY MR. NILLES): Bruce Nilles with the
21 Sierra Club on the point of explosion. A Consent
22 Decree was entered into a week ago by the Attorney
23 General that refers to two instances, operator
24 failed to take precautions that led to reactions,
25 the reactions produced uncontrolled toxic waste

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1 fumes or gases in 1996. Then in 1998 a mixture of
2 lithium foils was released emitting a volume of
3 gas four times this explosion, caused a surgment
4 [phonetic], to open and emission to escape
5 allowing hazardous gases to escape into the
6 atmosphere.

7 So, this is the agreement that the operator
8 signed two weeks ago to settle claims dated back
9 before 1996. The use of the word explosion is not
10 from the Sierra Club, it's a reflection of what
11 actually happened.

12 (BY MR. HARRIS): Did you have a question?

13 (BY MR. NILLES): Just a clarification.

14 (BY MR. HARRIS): With the previous owner as
15 to that, because those were both -- are both
16 examples of positive pressures of the kiln in that
17 something was positive is released. And maybe
18 this is an opportunity for me to respond earlier
19 to the, I guess, 135 or so violations since 1991,
20 including falsification of records, and this might
21 be a time that I could respond to that issue.

22 I guess what I would like to say, I think I'm
23 going to put in a classification of all of the
24 other ones, is the issue of falsification of
25 records. Maybe let me explain that one and what

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1 -- the only one that I can imagine you would be
2 referring to. This was probably six to eight
3 years ago and it was not falsification of records
4 from the company to the agency or any government
5 body.

6 What happened as a result of that is we had
7 an employee that had been receiving drums, maybe
8 we'd get 10 or 20 a week drums that was crushed
9 glass from chemical bottles, and they would send
10 us the crushed glass and we had a procedure that
11 we'd open up every one of those drums and look
12 into them and verify what was in it to make sure
13 that what they had sent us is, in fact, what they
14 sent us. We had an employee, who after receiving
15 these week after week, instead of opening up every
16 drum, actually opened a couple of them and then
17 shook the rest of them to hear crushed glass,
18 which is against our procedure. Okay. Said he
19 opened them, but he shook them.

20 The action of the company was to immediately
21 fire the employee and to immediately report this
22 act to the Illinois Environmental Protection
23 Agency.

24 So the falsification of records, I don't
25 believe -- if it's not that incident I cannot

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1 imagine what it would be. It was not a
2 falsification of records. That speaks to that
3 incident. The other 134 incident are very similar.
4 Maybe there was an exceedence of a positive
5 pressure that we had. We report each and every
6 one of those since 1991. Our facility has reported
7 each and every one of those to the EPA. Okay.

8 The up-to-date standards, what it says in
9 there is that if you have 10 of these within a
10 60-day period you will then report them. So the
11 2004 standards that were required to meet state
12 that 10 of them within 60 days, you write a letter
13 to the Agency. Since 1992 we have been required
14 by the Illinois EPA to write a letter on each and
15 every one of them.

16 We will continue to report each and every one
17 of them, so I think when you understand a lot of
18 these, you know, 135 sounds like a lot, but you
19 have to really understand the regulations.

20 And again, should any of you decide that you
21 want some more information about these specific
22 incidents, I encourage you to take a card and we
23 can provide some data and information for that.

24 (BY MR. BELOGORSKY): I would like to make
25 some qualifications, because a number of people

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1 raised the question about some kind of
2 communication between the Department and public
3 and the Agency. The Illinois EPA, we have pretty
4 good field people, field inspectors in the office
5 in Collinsville, we have main offices in
6 Springfield, and everybody that would like to
7 communicate with the Agency on a number of issues,
8 they can do it easily at any time. We're open for
9 these meetings with the Agency staff any time, and
10 the people are eager to give any assistance to you
11 any time. And in this particular case, for
12 example, Title V permit was put on for the public
13 in November 2002, and since this time, personally
14 me, I can talk about myself, as a permit director
15 of this draft I received no comments or no
16 communication at all from the public. So at any
17 time, once again, we're open for any discussions
18 and for any kind of comments and clarifications.

19 And one more point about plain English
20 language, how the permit is written and the
21 regulation is written. Yes, regulations they use
22 for this Title V facility are very, very
23 complicated, and you have to remember that this is
24 a legal document, and each and every condition
25 that's drafted should be drafted very, very

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1 carefully, because again, this is a legal
2 document, and unfortunately plain language is not
3 an option in this particular case and in any Title
4 V permit in general.

5 (BY MS. ANDRIA): I just have one quick
6 question. Could you estimate about how many hours
7 you have put into this permit and how many hours
8 others have put into this permit? Could you also
9 tell me what was the fee charged the company for
10 this permit?

11 (BY MR. BELOGORSKY): It's not an easy
12 question. I was drafting this permit over time
13 probably around three months. Let's see, and
14 after the draft was ready and sent to the public
15 notice we have numerous, numerous meetings and
16 conference calls with all of these people sitting
17 at this table, so it's hard to say how many
18 hours.

19 I have already contributed to this permit and
20 how many hours will be needed more in response to
21 the questions people raise on this hearing, so
22 probably it will be, I believe, at least a couple
23 more weeks, because I expect to have a number of
24 meetings in response to your questions from this
25 hearing.

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1 About fees. After July 1 we have -- Illinois
2 EPA General Assembly has raised the fees for many,
3 many sources, and for all sources in Illinois, so
4 we are charging the facility right now Title V
5 sources, so total -- what does the total -- I
6 believe, probably something about 2000.

7 (BY MR. HARRIS): It was 4,000 dollars.

8 (BY MR. BELOGORSKY): Four thousand dollars
9 we're charging the facility.

10 (BY MR. BERNOTEIT): Onyx has paid a Title V
11 permit fee every year since 1995, so they've been
12 paying for the permit for eight years even though
13 they haven't had the permit.

14 (BY MS. SANDRA WOOD): Related question about
15 the time. I understand the law, from your
16 discussion, it was passed in 1990, the company
17 presented their request for a permit in 1995, and
18 the permit was put out in June of 2003, and yet it
19 took just three months to write it, but those
20 weren't the dates I remember hearing. So the
21 process we have for permitting, inspecting,
22 reports, don't protect us at all. Why does it
23 take so long?

24 (BY MR. BERNOTEIT): To answer your question
25 about why it takes so long. Nationwide Title V

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1 permits have been slow to be issued. To date only
2 two permitting authorities in the entire United
3 States have successfully issued Title V permits.
4 USEPA Inspector General issued a report last year
5 detailing all of the problems with the Title V
6 permit program. This permit so far has taken a
7 significant amount of time to draft, and to have
8 meetings with the company USEPA, with your Bureau
9 of Land people. Today this is probably the most
10 significant permit that Anatoly has been
11 reviewing.

12 Why if the program was instituted in 1990 did
13 it take until 2003 to get where we are? The
14 Illinois EPA in 1992 -- let me back up -- in 1993,
15 we submitted our program to USEPA for approval.
16 We did not get approval for Title V CAAPP program
17 until March 7, 1995. And then we were collecting
18 permit applications for that next year.

19 Title V was a totally new and different way
20 for us to write and issue permits. We addressed
21 procedures and I had to hire and train personnel,
22 we've had a lot of personnel turnover in the last
23 eight years, so then we have to retrain personnel
24 on the Title V permits. It's just been a very
25 time-consuming process.

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1 Illinois is not alone in the country in
2 having problems issuing Title V permits. In
3 Region 5 we were the number -- a few months back,
4 we were the number one state in Region 5 as far as
5 Title V permit issuance and number of permits. To
6 give you a comparison, Region 5 consists of the
7 states of Illinois, Indiana, Ohio, Michigan,
8 Wisconsin, and Minnesota. And the Inspector
9 General's report that I referred to is available
10 on the USEPA website.

11 (BY MR. NILLES): Again, it's Bruce Nilles
12 with the Sierra Club. Just on the Title V permit
13 fee, the honest answer to the question the woman
14 just asked, is the Agency has never had the
15 resources to do the job. Back in 1993 it said it
16 needed about 16 to 18 million dollars to do the
17 job to get permits issued. Within three years,
18 between 1995 and 1998, they realized they couldn't
19 change the law passed in 1990 by Congress,
20 realized this state, they couldn't change the law,
21 so they did the next best thing, which make sure
22 the Agency could never charge enough permit fees
23 to hire enough staff to get the program done.
24 They fought tooth and nail at the state
25 legislature, we did succeed, we did get a permit

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1 fee increase. The honest answer is making sure
2 you never have the resources to get the job done.
3 The EPA stood by and let the program languish for
4 year after year after year.

5 And I guess I would continue with a question
6 that I asked earlier, which is what would it take
7 to deny a permit? Have you ever denied a permit
8 based on someone's compliance record? And if it's
9 not this compliance record where workers have been
10 injured, does incidents of explosions, fires?
11 What more does it take before you say you're done,
12 you are over, we are not going to give you a
13 permit? What would it take if it's not this
14 case?

15 (BY MR. BERNOTEIT): I will try to answer
16 your question. We've denied state operating
17 permits routinely if companies were not in
18 compliance. On Title V permit we can issue a
19 permit to a source who is out of compliance;
20 however, we can put into the permit a compliance
21 plan and schedule for compliance that is
22 enforceable not only by our state agency but USEPA
23 and by members of the public.

24 (BY MR. NILLES): That's not an answer to the
25 question. Because we have a company that

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1 consistently violated state and federal law. When
2 do you say no?

3 (BY MR. BELOGORSKY): You are talking about
4 violations? Violations of the land rules or
5 violations of the air rules? We are talking about
6 the Title V permit.

7 (BY MR. NILLES): For the air division, and
8 asked for the land and the same for USEPA.

9 (BY MR. BELOGORSKY): This is two separate
10 venues, compliance issues and enforcement issues
11 and Title V issues. Non-compliance issues where
12 is in the Title V permit in general, if this is
13 the case, if when this particular facility doesn't
14 comply with the state or federal rules, the
15 compliance schedule given the company, a
16 reasonable period of time to bring operation into
17 compliance. In this particular case this
18 effective regulations, these new matter regs will
19 be effective for this facility on June 30, 2004.

20 Right now until June 30 they will be subject
21 to RCRA rules. After June 30 they will be subject
22 to new federal MACT rules.

23 (BY MR. NILLES): You're still not answering
24 my question. You are referring to the case in the
25 Attorney General's office for outstanding

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1 significant non-compliance; right? There is a
2 case right now with the AG's office dealing with
3 Onyx.

4 (BY MR. BELOGORSKY): I honestly don't know
5 what the Attorney General's Office is doing
6 because --

7 (BY MR. NILLES): Exactly my point. Why do
8 you not consider the point in deciding whether or
9 not to operate in this community?

10 (BY MR. BELOGORSKY): This facility I'm not
11 talking about, I am not talking about this
12 facility, because I'm not familiar with the
13 enforcement case at the Attorney General's right
14 now. If any facility violates the rule, this is
15 the certain venue that our enforcement people use
16 to proceed and punish this company. This is how
17 we practice. It's not in the Title V permit if
18 this facility doesn't violate state or federal
19 regulations. If they have a fire or some accident,
20 it's not related to the air standards enforcement
21 by the state.

22 (BY MR. DRAGOVICH): I will try to answer
23 that question a little bit, but as the hearing
24 officer said earlier, the problem will be better
25 addressed in writing because we don't have

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1 enforcement people here. It's an issue of denying
2 the permit application on its technical merits and
3 enforcement is on a separate tract, and there's
4 specific enforcement procedures that are
5 followed.

6 The permits itself would be used as a tool.
7 I mean, you could site violation of the permit and
8 do enforcement against that, but you couldn't deny
9 the permit, and you probably know this better than
10 I do because you are an attorney and you would
11 know this case by law, but there were instances
12 where I believe we were accused of trying to
13 circumvent enforcement system by denying a permit
14 based upon the violations. Enforcement has to go
15 through the enforcement process. The permit has
16 to be an issue of denying based on technical
17 merits of the application.

18 (BY MS. RIEGLE): I would like to clarify the
19 issue of how long it takes to get a permit. I
20 think it was answered three months to issue a
21 permit, how many hours we put into this permit. He
22 didn't mean he picked it up and three months later
23 he had it done. It took quite a bit of time.

24 (BY MR. NILLES): Can the USEPA, do they
25 believe they have the authority to deny?

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1 (BY MR. VICTORINE): First all, with this
2 permit our question is very small, but not
3 withstanding that, I think sort of giving the same
4 answer that Ted gave, I think it's a good question
5 and I would like to see it raised to our
6 enforcement group and see if they -- you know, if
7 they have an attorney. I'm really not the right
8 person to answer it, but we have the comment on
9 the record and there will be responses to those
10 comments. I think that's probably the best way to
11 handle it. Thanks.

12 (BY HEARING OFFICER MATOESIAN): Do we have
13 any other questions or comments then at this
14 time? All right then. Well thank you all for
15 coming, and we hope to have complete responses to
16 you and will answer any further questions. Again,
17 the comment period is until --

18 (BY MS. ANDRIA): When will you reply to the
19 question of the extension of the comment period?

20 (BY MR. BRAD FROST): I think the best thing
21 for us to do is take it back to our superiors at
22 the EPA and they can review that, and we certainly
23 -- if the decision is made a hearing order will
24 be put into the record that will be placed on the
25 Internet, and it's certainly reasonable for us to

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1 mail out a letter saying that to the people
2 attending this hearing that the time period has
3 been extended.

4 (BY MS. ANDRIA): Also for the documents that
5 we requested that are not available that have not
6 been available to us --

7 (BY MR. BRAD FROST): Well, I think a lot of
8 those documents so far that you -- I've been the
9 person-- just for the information of the people
10 here -- that has been trying to track down Cathy
11 with the FOI request to our office. She had
12 received some information and there was some
13 information. Under her review she found things to
14 be missing from the records. The FOI review was
15 separated between the Bureau of Air and Land and
16 Water, so she came to me and she said can you see
17 if you can find this. I did go to our Bureau of
18 Land and I believe you received some further
19 documents, but then there was still some
20 outstanding documents. I think those documents
21 are USEPA documents. Those trial burns of 2002 to
22 2000, were not requested by our Agency, of the
23 company, they were done voluntarily by the
24 company. It's my understanding they were not
25 submitted officially to our agency. Now that's

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1 something maybe the USEPA can expand on further.
2 I'm not sure. It's my understanding those
3 documents were not things our agency requested of
4 the company.

5 (BY MS. ANDRIA): Does the Agency have them?
6 If you have them they're public record and their
7 subject to Freedom of Information. You can't say
8 that they were unofficial because you didn't
9 request them. If you have them, they're ours.

10 (BY MS. RIEGLE): They were sent directly to
11 USEPA.

12 (BY MS. ANDRIA): There is no copy at the
13 Illinois EPA of this multi -- this inspection
14 report, multi report 2000.

15 (BY MS. RIEGLE): I don't know that, but the
16 mini burns that they are talking about were not
17 submitted to the Illinois EPA.

18 (BY MS. ANDRIA): Since USEPA is a party to
19 the whole permit process of this can they resubmit
20 the permit and we get our 30 days after we get it
21 and submit a FOI request to the USEPA?

22 (BY MR. VICTORINE): I'm not quite sure

23 (BY MS. ANDRIA): We want the document. If
24 we have to go to USEPA we'll submit a FOI to you.

25 (BY MR. VICTORINE): This is which document?

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1 (BY MS. ANDRIA): This is the 2000 multimedia
2 inspection report, plus the test burns, and I
3 asked about the test burns and were told that they
4 weren't done. Is that correct?

5 (BY MR. BRAD FROST): All I know is we don't
6 have them.

7 (BY MS. ANDRIA): So I'm asking if we don't
8 have them, do you have them?

9 (BY MR. VICTORINE): We can look to our file.
10 As far as the inspection report, I don't know, and
11 I don't know about the inspection that was done by
12 the state.

13 (BY MS. ANDRIA): USEPA.

14 Q (BY MR. VICTORINE): Again, that's something I
15 can raise to the enforcement people that keep that
16 kind of thing.

17 (BY MS. ANDRIA): It's referenced in the
18 Illinois EPA documents, because when I went
19 through the information material it was referenced
20 there but it wasn't -- but it was missing.

21 (BY MS. RIEGLE): It sounds like we're
22 talking about more than one thing. An inspection
23 report and multimedia are two separate things.

24 (BY MR. NILLES): It's 2000 multimedia
25 report, EPA did a multimedia inspection.

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1 (BY MS. RIEGLE): You are leaving out the
2 multimedia, and when I hear inspection report I'm
3 thinking IEPA inspection report.

4 (BY MR. NILLES): And the other is these
5 trial burns, were those not part of the record?

6 (BY MR. DRAGOVICH): I think Mary was trying
7 to address that.

8 (BY MS. RIEGLE): I think they call them
9 mini-burns, that is something the facility did on
10 their own. It wasn't required or asked for, that
11 was a company decision to do those burns, so those
12 would not be in our records.

13 (BY MR. HARRIS): We did those tests
14 ourselves and we hired the testing companies to
15 come on our site and test. I don't want to make
16 this too simplistic, but if you want to come I'll
17 give you a copy, just call me or something, I'll
18 copy it and send it to you. Those are not
19 required, but we did those tests to assure
20 ourselves that when it comes time to comply with
21 the maximum, our machines will.

22 (BY MR. NILLES): Did you submit them to the
23 USEPA?

24 (BY MR. HARRIS): If she said they were not
25 required I'm quite sure we didn't officially

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1 submit them, because they weren't required.
2 Whether we gave somebody a copy, we may have or
3 may not have. You are certainly welcome to them
4 if you would like them, call and we will give them
5 to you. As far as the multimedical inspections,
6 we have not received a copy. If you get a copy --

7 (BY MS. ANDRIA): We will.

8 (BY HEARING OFFICER MATOESIAN): We'd like to
9 thank you again for coming. This wasn't the most
10 convenient place for this, but it's the best we
11 can do. We'll send the responsiveness study out
12 to you. Good night.

13 (Adjourned)

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STATE OF ILLINOIS)
)
COUNTY OF MADISON)

I, CYNTHIA A. MYERS, a Notary Public in and for
the County of Madison, State of Illinois, do
hereby certify that a hearing was held at the
Cahokia Village Hall, Cahokia, Illinois, by the
Illinois EPA regarding Draft CAAPP and RCRA
Permits for Onyx Environmental Services, Sauget,
Illinois, and was taken in stenotype and
transcribed accordingly.

IN WITNESS WHEREOF, I have hereunto set my hand
and affixed my notarial seal this 4th day of
August, A.D., 2003.

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